
United States
Circuit Court of Appeals
For the Ninth Circuit

TONY PANZICH and JOHN ARKO,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

Upon Appeal from the United States District Court for
the Southern District of California, Central Division.

FILED

NOV - 1 1932

PAUL P. O'BRIEN,
CLERK

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NAMES AND ADDRESSES OF ATTORNEYS

For Plaintiff and Appellee:

SAMUEL W. McNABB, ESQ.,

U. S. Attorney,

MILO E. ROWELL, ESQ.,

Assistant U. S. Attorney,

Federal Building,

Los Angeles, California.

For Defendants and Appellants:

RUSSELL GRAHAM, ESQ.,

650 South Spring Street,

Los Angeles, California.

UNITED STATES OF AMERICA, SS:

To United States of America, and to Samuel W. McNabb, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 24 day of June, A. D. 1932, pursuant to an order allowing appeal filed May 23, 1932 in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain action entitled United States of America, plaintiff, vs. Tony Panzich, et al, wherein Tony Panzich and John Arko are appellants and you are appellee to show cause, if any there be, why the judgments and sentences in the said action mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable George Cosgrave United States District Judge for the Southern District of California, this 25 day of May, A. D. 1932, and of the Independence of the United States, the one hundred and fifty-sixth

GEO. COSGRAVE

U. S. District Judge for the Southern District
of California

[Endorsed on back:]

In the United States Circuit Court of Appeals for the Ninth Circuit

Tony Panzich and John Arko, Appellants vs. United States of America, Appellee.

CITATION

Copy rec'd May 25, 1932 Milo E. Rowell, Assistant U. S. Atty. FILED May 25, 1932 R. S. ZIMMERMAN, CLERK, by G. J. Murphy, Deputy Clerk

No. 10454-J

Filed June 3, 1931

Viol: Section 37 of the Federal Penal Code—Conspiracy to violate National Prohibition Act.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the first Monday of February in the year of our Lord one thousand nine hundred thirty-one:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

T h a t

TONY PANZICH
NICK JURASH
JOE N. WILSON
JOHN ARKO and
TONY GOVARKO

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: prior to the dates of the commission of the overt acts hereinafter set forth, and continuously thereafter to and including the date of finding and presentation of this indictment, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did then

and there knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with each other and with divers other persons whose names are to the grand jurors unknown, to commit, in the said County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, an offense against the United States of America and the laws thereof, the offense being to violate Title II of an Act of Congress of the United States approved October 28, 1919, commonly known and designated as the National Prohibition Act, that is to say, that they, the said defendants, would thereupon unlawfully and in violation of Section 3, Title II of the said Act sell and possess large quantities of intoxicating liquor, all of which should then and there be fit and for use for beverage purposes and all of which should contain more than one-half of one per cent of alcohol by volume, neither of said defendants then and there having, nor intending thereafter to have, a permit so to do from the Director of Prohibition, Department of Justice, or the Commissioner of Industrial Alcohol, Treasury Department of the United States, or any other proper officer of the United States then and there authorized to issue such permits.

And the grand jurors aforesaid, upon their oath aforesaid, do further charge and present that at the hereinafter stated times, in pursuance of, and in furtherance of, in execution of, and for the purpose of carrying out and to effect the object, design and purposes of said conspiracy, combination, confederation and agreement aforesaid, the hereinafter named defendants did commit the following overt acts in the City of Santa Monica, County of Los Angeles, in the state,

division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court:

1. That on or about the 30th day of April, 1931, defendant John Arko sold one (1) pint of whiskey to S. W. Brooks at Santa Monica, California.

2. That on or about the 4th day of May, 1931, defendant Tony Govarko sold one (1) pint of whiskey to H. S. Casey at Santa Monica, California.

3. That on or about the 13th day of May, 1931, defendant Nick Jurash sold one (1) pint of whiskey to H. S. Casey at Santa Monica, California.

4. That on or about the 13th day of May, 1931, defendant Nick Jurash sold one (1) quart of wine to H. S. Casey at Santa Monica, California.

5. That on or about the 15th day of May, 1931, defendant Joe N. Wilson sold one (1) pint of whiskey to H. S. Casey at Santa Monica, California.

6. That on or about the 15th day of May, 1931, defendant Tony Panzich possessed one (1) quart bottle approximately three-fourths ($3/4$) full of wine at Santa Monica, California.

7. That on or about the 15th day of May, 1931, defendant Tony Panzich possessed one (1) pint of whiskey at Santa Monica, California.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SAMUEL W. McNABB,
United States Attorney,
Harry Graham Balter
Assistant United States
Attorney

Endorsed on back: No. 10454-J United States vs. Tony

Panzich, Nick Jurash, Joe N. Wilson, John Arko and Tony Govarko

Indictment Violation Section 37 Federal Penal Code
—Conspiracy to violate National Prohibition Act

FILED: June 3, 1931 R. S. ZIMMERMAN, CLERK,
By.....Deputy Clerk

Panzich \$3,000.

others 2,000.

At a stated term, to wit: The February Term, A. D. 1931, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 22nd day of June, in the year of our Lord one thousand nine hundred and thirty-one
Present:

The Honorable Wm P. James, District Judge.

United States of America,)	
	Plaintiff,) No. 10454-J Crim.
vs)	
Tony Panzich,)	
Nick Jurash,)	
Joe N. Wilson,)	
John Arko and)	
Tony Govarko,)	
	Defendants.)

This cause coming before the Court for arraignment and plea of defendants Tony Panzich, Nick Jurash, Joe N. Wilson, John Arko and Tony Govarko; M. E. Rowell, Assistant United States Attorney, appearing as counsel for the Government, and the said defendants

being present in court, in propria persona, are informed of the Indictment herein by the Clerk of the Court, and each of the said defendants having thereupon stated his true name to be as given therein, now enters his plea of not guilty; whereupon, it is by the Court ordered that this cause be continued to September 14th, 1931, for setting for trial of the said defendants.

At a stated term, to wit: The February Term, A. D., 1932, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 19 day of May in the year of our Lord One thousand nine hundred and thirty-two.

Present:

The Honorable Geo Cosgrove District Judge.

United States of America,)	
	Plaintiff,) No. 10454-J-Crim
vs)	
Tony Panzich,)	
Nick Jurash,)	
Joe N. Wilson,)	
John Arko,)	
Tony Govarko,)	
	Defendants.)

This cause coming on for trial of defendants Tony Panzich, Nick Jurash, Joe N. Wilson, John Arko, and Tony Govarko; Milo E. Rowell, Assistant United States Attorney, appearing as counsel for the Government and Russell Graham, Esq., for the defendants, who are present; and Henry W. Mahan being present as the stenographic reporter of testimony and proceed-

ings; at 10:11 o'clock a. m., court convenes in this cause, and it is by the Court ordered this trial be proceeded with, and that a jury be impaneled, and thereupon,

The names of twelve jurors are drawn and called, being as follows, to-wit: Chas. B. Barnes, Curt R. Besser, Henry S. Williams, George L. Robbins, Jno. C. Mertz, Carl Giles Firmin, Philip Wiseman, Fred R. Bannard, R. G. MacFie, Rex Anglin, Arthur G. McKinnon and Walter L. Pearson.

The twelve jurors, whose names were called, take their places in the jury box, and are by the court examined for cause; Rex Anglin and Curt R. Besser are excused for cause, and it is thereupon by the Court ordered two more names be called from the list of jurors; whereupon,

Two more names are called, being the names of Fred S. King and Willard Warne; and the said jurors whose names were just called, take their places in the jury box, and are by the court and Russell Graham, Esq., examined for cause; Philip Wiseman is by Russell Graham, Esq., challenged for cause, and it is by the court ordered the challenge of the said Russell Graham, Esq., is denied, but the said Philip Wiseman is by the Court excused upon a peremptory challenge by the said Russell Graham, Esq., for the defendant, and it is ordered another name be drawn; whereupon,

The name of Roy W. Moore is called; and the said Roy W. Moore, having taken his place in the jury box, is by the Court and by Russell Graham, Esq., examined for cause, and Chas. B. Barnes is by the Court excused on defendants' peremptory challenge, and it is ordered another name be drawn; whereupon,

The name of Sylvester Pier Robbins is called; and

the said Sylvester Pier Robbins, having taken his place in the jury box, is by the Court and by Russell Graham, Esq., examined for cause, and Carl Giles Firmin is by the Court excused on defendants' peremptory challenge, and it is ordered another name be drawn, whereupon,

The name of Alfred W. Hill is called; and the said Alfred W. Hill, having taken his place in the jury box, is by the Court, by Milo E. Rowell and Russell Graham, Esq., examined for cause; and thereupon

The said jurors now in the jury box having been passed for cause, and there being no further peremptory challenge by the defendants or challenge by the Government, the said jurors are accepted as the jury to try this cause, and are sworn in a body; the same being as follows, to wit:

THE JURY

Sylvester Pier Robbins	Roy W. Moore
Fred S. King	Fred R. Bannard
Henry S. Williams	R. G. MacFie
George L. Robbins	Willard Warne
Jno. C. Mertz	Arthur G. McKinnon
Alfred W. Hill	Walter L. Pearson

Milo E. Rowell, Esq., makes the opening statement to the jury for the Government, and Russell Graham, Esq., reserves his opening statement; and thereafter

S. W. Brooks is called and sworn and testifies for the Government on direct examination conducted by Milo E. Rowell, Esq., is cross-examined by Russell Graham, Esq., redirect examined by Milo E. Rowell, Esq., and is examined by the Court and recross-examined by Russell Graham, Esq., and there is offered and admitted in evidence

Gov't's Ex. 1: 1/2 pint 4/5ths full of liquor
and there are offered and marked for identification
Gov't's Ex. 2: for ident.: 1/2 pint bottle of liquor,
1/2 full
“ “ 3: “ “ 1/2 pint bottle of liquor,
about 3/4's full

and offered and admitted in evidence

Gov't's Ex. 4: 3 receipts of "Good Fellows Inn,"
for \$5.40, \$8.15, and \$4.50 respec-
tively

and thereupon

At 11:07 o'clock a. m., recess is declared for a period
of ten minutes.

At 11:22 o'clock a. m., court reconvenes, all being
present as before, and it is ordered trial proceed, and
there are offered and marked for identification

Gov't's Ex. 5, for ident.: 1/2 pint bottle of liquor
“ “ 6, “ “ : Pint bottle of liquor
“ “ 7, “ “ : Quart bottle of liquor

Homer F. Casey is called and sworn and testifies for
the Government on direct examination conducted by
Milo E. Rowell, Esq., and is examined by the Court;
following which there is offered and admitted in evi-
dence

Gov't's Ex. 8: Receipt of "Good Fellows Inn"
and thereupon

At 12:13 p. m. o'clock, the jury are by the Court ad-
monished, and a recess is declared to 2:00 o'clock p. m.
today.

At 2:10 o'clock p. m., court reconvenes, and all being
present as before, Harry J. Waite, is called and sworn
and testifies for the Government on direct, examination
conducted by Milo E. Rowell, Esq., and is cross-
examined by Russell Graham, Esq.;

Thomas Robinson is called and sworn and testifies for the Government on direct examination conducted by Milo E. Rowell, Esq., but is not cross-examined and there are offered and admitted in evidence

Gov't's Ex. : 9: lease dated 7/31/30 between Santa Monica Lodge No. 906, etc. and Tony Panzich

“ “ 10: 2 corporation grant deeds, each to “John Arkovich”, et al

and thereafter

Earl G. Bleak is called and sworn and testifies for the Government on direct examination conducted by Milo E. Rowell, Esq., and the said E. Bleak having not been cross examined, there are offered and admitted in evidence at this time

Gov't's Exs. 2, 3, and 5

which were heretofore marked for identification, and there is also offered, but not admitted in evidence, Government's Exhibit 6, which was heretofore marked for identification; and thereupon

At 2:37 o'clock p. m., Government rests;

The jury are by the Court excused at the request of Russell Graham, Esq., and retire from the court room, and the said Russell Graham, Esq., moves for a directed verdict of not guilty as to each defendant, and argues in support thereof; Milo E. Rowell, Esq., argues in opposition thereto, and Russell Graham, Esq., having argued further, the said motion is thereupon by the Court denied, and an exception noted; and thereafter

At 2:55 o'clock p. m., a recess is declared for a period of five minutes.

At 3:06 o'clock p. m., court reconvenes, all being present as before, including the jury, and

Nick Jurash, defendant, is called and sworn and tes-

tifies for defendants on direct examination conducted by Russell Graham, Esq., and is cross-examined by Milo E. Rowell, Esq.;

R. B. Restovich is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., is cross examined by Milo E. Rowell, Esq., and redirect examined by Russell Graham, Esq.;

Mrs. Katie Jurash is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., but is not cross-examined;

Miss Lena Jurash is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., but is not cross-examined;

John Muhn is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., but is not cross-examined; and thereupon

At 3:33 o'clock p. m., recess is declared for a period of ten minutes.

At 3:58 o'clock p. m., court reconvenes, and all being present as before, including the jury,

Joseph N. Wilson, defendant, is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., and is cross-examined by Milo E. Rowell, Esq., redirect examined by Russell Graham, Esq., is examined by the Court, and redirect examined by Russell Graham, Esq.; and thereupon

At 4:20 o'clock p. m., the jury are told to remember the admonishment, and a recess is declared to the hour of 10 o'clock a. m. May 20, 1932.

At a stated term, to wit: The February Term, A. D. 1932, of the District Court of the United States of

America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Friday the 20 day of May, in the year of our Lord one thousand nine hundred and thirty-two

Present:

The Honorable Geo. Cosgrave, District Judge.

United States of America,)	
	Plaintiff,) No. 10,454-J—Crim
vs)	
Tony Panzich,)	
Nick Jurash,)	
Joe N. Wilson,)	
John Arko,)	
Tony Govarko,)	
	Defendants.)

This cause coming on for further trial of defendants Tony Panzich, Nick Jurash, Joe N. Wilson, John Arko, and Tony Govarko; Milo E. Rowell, Assistant United States Attorney, appearing as counsel for the Government and Russell Graham, Esq., for defendants, who are present; and Henry W. Mahan being present as stenographic reporter of testimony and proceedings; at 10:05 o'clock a. m., court reconvenes in this cause, and the jury being present, the court orders trial proceed, and

Martin Miklauschutz is sworn as an interpreter of the Slavonian language, and, thru said interpreter,

Tony Govarko, defendant, is called and sworn and testifies for the defendants on direct examination conducted by Russel Graham, Esq., and through said interpreter is cross-examined by Milo E. Rowell, Esq., and redirect examined by Russell Graham, Esq.; following which

William M. Austin is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., and is cross-examined by Milo E. Rowell, Esq., and examined by the Court;

Joseph Pablovich is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq.;

Winfield Husted is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., but is not cross-examined;

John Arko, defendant, whose true name is John Arkovich, is called and sworn and testifies for the defendants on direct examination conducted by Russell Graham, Esq., and is cross-examined by Milo E. Rowell, Esq., and thereafter

At 11:00 o'clock a. m., recess is declared for a period of ten minutes.

At 11:12 o'clock a. m., court reconvenes, and all being present as before, Defendants rest; motions which were heretofore made on the part of the defendants for an instructed verdict, and which the defendants state they are willing to submit without argument, are renewed, at this time; and thereupon the said motions are denied, and exception noted; following which

Harry J. Waite, heretofore sworn, resumes the stand in rebuttal, and testifies on direct examination conducted by Milo E. Rowell, Esq., is cross-examined by Russell Graham, and redirect examined by Milo E. Rowell, Esq.;

S. W. Brooks is called in rebuttal and testifies on direct examination conducted by Milo E. Rowell, Esq., and is cross-examined by Russell Graham, Esq.;

Lawrence H. McDonald, called in rebuttal, is sworn and testifies on direct examination conducted by Milo

E. Rowell, Esq., and is cross-examined by Russell Graham, Esq.; and there is offered and admitted in evidence

Gov't's Ex. 6, for ident.: Bottle of liquor heretofore marked for identification; and thereupon

At 11:33 o'clock a. m., Government rests; Russell Graham, Esq., renews again his previous motions, and the said motions are again by the Court denied, and exception noted; and thereafter

At 11:35 o'clock a. m., Milo E. Rowell, Esq., argues to the jury, and Russell Graham, Esq., argues to the jury for the defendants; and

At 12:05 o'clock p. m. recess is declared until 2:00 o'clock p. m. today.

On motion of Milo E. Rowell, Esq., it is by the Court ordered Government's Exhibits 9 and 10 may be withdrawn and returned to the Elks Club at Santa Monica upon the substituting of copies therefor.

At 2:05 o'clock p. m., court reconvenes, and all being present as before, including the jury, Milo E. Rowell, Esq., argues to the jury for the Government, and Russell Graham, Esq., argues for the defendants;

At 2:22 o'clock p. m., the Court instructs the jury on the law applicable to this case; Russell Graham, Esq., suggests further instruction which is given; and, at 2:50 o'clock p. m., Olcott S. Bulkly is sworn as the bailiff to care for the jury, and the jury retire to deliberate upon a verdict; and thereupon a recess is declared until the jury return into Court.

At 3:25 o'clock p. m., court reconvenes, all being present as before, and the verdict of the jury is presented by the foreman of the jury, and read in open court by the clerk, and is by the court ordered filed and entered; the same, as presented and read, being as follows, to wit:

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

United States of America, Plaintiff, vs Tony Panzich, Nick Jurash, Joe N. Wilson, John Arko and Tony Govarko, Defendants, No. 10454-J—Crim. We, the jury, in the above entitled cause, find the defendant Tony Panzich guilty as charged in the indictment; and the defendant, Nick Jurash, not guilty as charged in the indictment; and the defendant Joe N. Wilson guilty as charged in the indictment; and the defendant John Arko guilty as charged in the indictment; and the defendant, Tony Govarko not guilty as charged in the indictment. Los Angeles, California, May 20, 1932. Walter L. Pearson, Foreman of the Jury. Filed: May 20, 1932, R. S. Zimmerman, Clerk, by Francis E. Cross, Deputy Clerk.

The verdict as aforesaid having been returned by the jury, the Court discharges the jury from further consideration of this cause; and since the jurors composing this jury are members of the panel of Judge James' Court, they are excused at this time to report for further attendance in the court room of Judge James at 10 o'clock a. m., May 27, 1932; and it is by the Court ordered this cause be continued to Monday, May 23, 1932, for pronouncement of sentence upon the defendants found guilty; and it is ordered bonds of such defendants remain in effect, and the bonds of defendants found not guilty be exonerated and they are released.

On motion of M. E. Rowell, Esq., liquor exhibits are by the Court ordered returned to the Prohibition Department; and thereupon Government's Exhibits 1, 2, 3, 5, 6, and 7 are accordingly returned, and a receipt

obtained therefor, which is placed on the file cover; and thereafter

At 3:30 o'clock p. m. a recess is declared until tomorrow at 9:30 o'clock a. m.

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALI-
FORNIA CENTRAL DIVISION

UNITED STATES OF)
AMERICA,)
Plaintiff,)
VS) No. 10,454-J Crim.
TONY PANZICH, Nick Jurash,)
JOE N. WILSON, JOHN)
ARKO and TONY GO -)
VARKO,)
Defendants.)

VERDICT

We, the jury in the above entitled cause, find the defendant, TONY PANZICH,

guilty as charged in the indictment; and the defendant, NICK JURASH,

not guilty as charged in the indictment; and the defendant, JOE N. WILSON,

guilty as charged in the indictment; and the defendant, JOHN ARKO,

guilty as charged in the indictment; and the defendant, TONY GOVARKO,

not guilty as charged in the indictment.

Los Angeles, California, May 20, 1932.

FILED: WALTER L. PEARSON

May 20, 1932 Foreman of the Jury

R. S. ZIMMERMAN, CLERK,

By Francis E. Cross, Deputy Clerk.

At a stated term, to-wit: the February term A. D. 1932 of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the court room thereof, in the City of Los Angeles, on Monday, the 23d day of May in the year of our Lord nineteen hundred and thirty-two.

Present:

The Honorable George Cosgrave, District Judge.

UNITED STATES OF)
AMERICA,)
Plaintiff,)
VS) No. 10454-J Crim.
TONY PANZICH, et al,)
Defendants.)

This cause coming on for pronouncement of sentence upon defendants, Tony Panzich, Joe N. Wilson and John Arko; Gwyn S. Redwine and Milo E. Rowell, Assistant United States Attorneys, appearing as counsel for the government and Russell Graham, Esq. for the defendants, all of whom are present; whereupon, a statement having been made by the Court, it is by the Court ordered that imposition of sentence as to defendant Joe N. Wilson be postponed at this time, and said defendant placed on probation for a period of three years on condition he refrain in all respects from transgressing any law, particularly relating to liquor, and that he report once a month in writing during the aforesaid period of probation, and further ordered that if said defendant violates any law, sentence will be pronounced; and thereafter the court pronounces sentence upon defendants Tony Panzich and John Arko for the crime of which they stand con-

victed, namely, violation of section 37 of the Federal Penal Code—conspiracy to violate the National Prohibition Act,—and it is the judgment of the court that defendant Tony Panzich be committed to the Federal penitentiary at McNeil Island, Washington, for the term and period of two years, and that he pay unto the United States of America a fine in the sum of \$5,000.00, and stand committed to the said penitentiary until said fine shall have been paid; and it is the judgment of the court that defendant John Arko be committed to the Federal penitentiary at McNeil Island, Washington, for the term and period of two years and that he pay unto the United States of America a fine in the sum of \$1,000.00, and stand committed to the said penitentiary until said fine shall have been paid.

It is by the court ordered defendants Tony Panzich and John Arko be remanded to custody; and that the bond on appeal of the two said defendants be fixed in the sum of \$10,000.00 each.

(81/185)

sending the plaintiff, and Russell Graham, Esq., representing the defendants.

Whereupon, the following proceedings were had.

EXCEPTION NO. I.

THE CLERK: United States vs Tony Panzich, Nick Jurash, Joe N. Wilson, John Arko and Tono Govarko.

MR. GRAHAM: The defendants are ready and are present in court.

THE COURT: Very well.

THE CLERK: Will the defendants step forward?

MR. GRAHAM: But I don't want their names called, to have them step forward, because there may be a question of identity, and I don't think it would be fair. I assure the Court they are all here.

THE COURT: Well, what is the idea?

MR. GRAHAM: If it becomes necessary for any Government witness to point out which defendant is which defendant, I don't think they should have that done for them by the clerk before they have to do it.

THE COURT: Well, let the defendants take their places in the regular way, and we will decide it in the regular way when we get to it.

MR. GRAHAM: Those are all of the defendants and they are all present.

THE COURT: Proceed.

THE CLERK: May I call the roll, your Honor?

THE COURT: Yes.

THE CLERK: This is Judge James' jury.

THE COURT: Yes.

(Clerk calls roll of the jury.)

THE COURT: Fill the box.

(Whereupon twelve jurors took their seats in the jury box)

THE COURT: The case this morning, gentlemen, is an indictment against Tony Panzich. Stand please.

MR. GRAHAM: If the Court please, before this is done, I would like to ask if the Government witnesses are in the room?

THE COURT: Well, I don't know. He will stand if he is present.

(The defendant Tony Panzich arises).

MR. GRAHAM: Let the record show that I object to this procedure, and note an exception.

THE COURT: Yes.

Nick Jurash, Joe N. Wilson, John Arko and Tony Govarko.

(The foregoing named defendants arose.)

THE COURT: That's sufficient. Sit down, gentlemen.

(All defendants became seated).

THE COURT: Those are the defendants.

(Whereupon a jury of twelve men was duly empaneled, after examination by the Court and counsel, and said jury was duly sworn).

After the indictment was read, the pleas of not guilty stated, and the opening statement made by the United States Attorney, the following proceedings were had:

PLAINTIFF'S EVIDENCE.

S. W. BROOKS

a witness on behalf of the Government testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

My full name is S. W. Brooks. My occupation is Federal Prohibition Agent, at which I have been engaged for two years. I was acting in the capacity of a federal prohibition agent during the months of April

and May, 1931. I know of certain premises in the City of Santa Monica known as Tony's Goodfellows Inn. I was first there on April 30, 1931. I had three companions on that trip. I don't know who they were. One was a person who came into the office and arranged to take me out there. I don't know who brought it up, and we met two other parties in Santa Monica before we went to the premises. I didn't know any of them. I had never known any of them and I have not seen them subsequent to that time. I entered and was introduced to Mr. Panzich just after getting inside the cafe. The informant that came into the office and agreed to take me out introduced me. Two of my companions were women and one was a man. After I was introduced to the defendant, Panzich I was escorted to a booth in the place by a man at that time known to me as Kelly, whom I later found out to be John Arko. He took me to a booth and closed the curtains and asked us what we wanted and I ordered a pint of whiskey from Mr. Arko. I ordered the whiskey first, but Mr. Arko didn't take the order for the food. Another waiter took the order for the food. Mr. Arko only took the order for the liquor. After I gave that order, Arko went away and in about two minutes returned with a pint of whiskey. After the whiskey was delivered to me by Mr. Arko I drank one glass of it and retained the other part. The bottle which I bought from the defendant Arko on April 30 for the price of \$2.00 I can identify by my signature and identification mark. After I left the premises and took the bottle with me, I delivered it to the government chemist, Mr. Stribling. (At this stage of the proceedings it was stipulated by and between counsel that if Mr. Stribling were called to the stand he would testify and that he may be deemed to have testified, that he is the Government chemist, and that

the bottle mentioned by the witness was turned over to him by this witness and that he, Mr. Stribling had the possession of it since that time and that the contents were the same as they were when he first received it from the witness and also that Mr. Stribling would testify that he examined the contents and that it contained 43.63 per cent alcohol by volume and that in his opinion it was fit for beverage purposes). (Whereupon the bottle was introduced in evidence as Government's Exhibit I). Subsequent to the delivery to me by Arko of the bottle, Government's Exhibit I, I retained the bottle and took it away with me that night after paying the bill, and on this bill that the waiter gave me was an item at the bottom of the bill, initialing the item, calling it "B. R. K.", and then putting opposite that "B. R. K.", the amount of the cost of the liquor item, \$2.00. I had purchased other things there that evening and they were listed on that statement. Everything was on the same statement, computed at the top, and down at the bottom was "B. R. K.", \$2.00. I paid the bill. The next time I went to these premises was May 4, in company with Federal Agent Casey. We were taken to a booth in the same manner by the waiter known to me now as Nick Jurash, and after being in the booth, Agent Casey ordered some liquor, and he delivered a pint of whiskey which he paid for later. There were two of them there and I don't recall which one took Casey's order for this liquor. It seems to me that the defendant Jurash—Jurash and Arko, known to us at that time as Kelly—were there at that time. In about two minutes' time Arko returned with the pint of whiskey and handed it to Mr. Casey. We drank one glass of it and the rest was retained. We also ordered food that evening. We received a statement for the food in the same manner, with the food itemized at the top, and the

liquor itemized at the bottom as "B. R. K.". A charge of \$2.00 was placed after the item "B. R. K." Later I seized from Panzich a number of statements that he had in his cash register, and all the statements that he had in there were "B. R. K.", "\$2.00", "B. R. K., \$3.00", or "B. R. K., \$5.00". This bottle was the bottle Casey purchased on May 4th, the one I have just testified in regard to. I have my signature and identification in my own hand writing on the bottle. I don't know to whom this bottle was delivered subsequent to its having been taken from the premises known as Tony's Goodfellows Inn. It was placed in Agent Casey's charge and Agent Casey took it to the Government warehouse. (Whereupon the bottle was marked

Government's Exhibit 2 for identification).

I went there again on May 13th, accompanied by Agent Casey. We were escorted to a booth in the same manner, and a waiter came and took our orders for food, and Agent Casey ordered a pint of liquor and after the liquor was delivered, then Casey ordered a bottle of wine and that was delivered. I couldn't testify as to who those people were who delivered the pint of liquor on the 13th. Arko, known to us as Kelly, delivered to us a quart of wine. The liquor was retained by Agent Casey. We drank a glass of it or a part of a glass. Aside from the wine and whiskey, on May 13th, we ordered food. We received a statement for the food. It itemized the food we had purchased from the Inn and also two items "B. R. K." and then the wine was itemized but I don't recall how. The charge was \$2.00 for the whiskey and \$2.50 for the wine. It was paid for by Agent Casey. This is the bottle of whiskey which was bought by Agent Casey on the 13th of May and my identification initials are on it. Agent Casey took the bottle to the Government warehouse. I didn't accom-

pany him but saw him leave the office. (Whereupon the bottle was marked Government's Exhibit 3 for identification). I went to the premises again on May 15th, accompanied by Agents Casey, Waite, Clemens, McDonald and Banta. Agents Casey and Waite first entered the premises. Agent Clemens and myself entered about thirty minutes later. When Clemens and I entered the defendants Panzich, Arko, Govarko, Jurash, Wilson and Mrs. Panzich were present. Agents Casey and Waite at the time of our entrance had placed the defendant Wilson under arrest when we entered and we then placed Mr. Panzich and the other defendants under arrest. We had warrants for arrest. I didn't place them under arrest. The deputy United States marshal who accompanied us took them into custody. We had warrants of arrest and search warrants and made a search under the authority of the search warrants. We found a bottle of wine in the safe. Mr. Panzich opened the safe and got a bottle of wine out, and Agent Casey found a bottle of whiskey in the back part of the cafe. Apparently the safe was locked when Mr. Panzich went to the safe. I observed him open it by means of a combination. He twisted the dial on the safe. We searched the cafe part and found no other intoxicants on the premises besides this pint of whiskey and bottle of wine. We took some little bills with identification "B. R. K." on them. We took some of those. I am unable to identify them as my identification mark isn't on it. I can identify these slips of paper. They are statements of "B. R. K." and so forth. They were found in the—I couldn't distinguish them correctly—but I found some of them in the cash register. I think those initialed were taken out of the cash register by Mr. Panzich and myself. (Whereupon the slips were introduced as Government's Exhibit 4). There was no

bottle of wine purchased on the occasion of May 15th. The bottle of wine was found on that date.

CROSS EXAMINATION

BY MR. GRAHAM:

I don't know who the waiter was who waited on us the first time I was there on April 30th. One of these defendants was there at the time, but this defendant was not a waiter. He didn't take the part of a waiter. There was another waiter there besides Mr. Arko. On the first trip that I made there I saw the defendants Panzich, Arko and Govarko. (Whereupon in response to questions by counsel for defendants the witness identified each of the defendants). I don't recall seeing Jurash there on April 30th. Govarko came to our table that night but he is not the one who served us with what we got. He was dressed about like he is now. He didn't have on a waiter's uniform. Some of the waiters' had on waiter's uniforms but Arko or Govarko never did, that I saw. There is only one waiter I can identify that did. There is only one other waiter that I know of that isn't a defendant in the case. When I got my bill for what we had on April 30th the items of food were itemized at the top of the bill but I don't recall if every piece of food was itemized or not, but the items were at the top, "B. R. K." at the top, or food at the middle of the page. I don't mean they segregated it in that manner. On one occasion the food might have been at the top and on the next occasion at the bottom. I don't recall on this particular occasion but it was separated from the food. On that occasion I don't remember whether we had a complete dinner or a sandwich. The first time we was there about 7:30 P. M. I don't recall what we had to eat or how much the bill was. I am pretty sure on the first trip I had a sandwich. My ex-

pense account would show how much I spent but I haven't refreshed my recollection by looking at it. I have refreshed my recollection by looking at the notes as to the first occasion. I did that before trial this morning. Those notes don't tell how much I spent in the cafe. That is on a separate record. I don't know the name of the man who took me there and introduced me. It was a woman and not a man. I didn't even ask her her name. She gave me some fictitious name. They never give correct names. I don't remember it. I didn't make any effort to find out who it was or where she lived. I was assigned to her through the office. I do not know whether she was paid for going down there. I don't know the names of the two men who were along or the other woman. I don't know the names of either of the people I met that night and I didn't make any effort at all to find out their names or addresses. The next time I was there was May 4th. I have refreshed my recollection as to the dates. I made notes as to the exact dates shortly after the incidents happened. I made a record of the trips. To the best of my knowledge those dates are correct. I made the notes the same date the incidents happened. For instance, I made a note May 4th, so and so and so and so happened and I am testifying from my best recollection because I haven't those dates with me here. I looked at them this morning. On May 4th, I don't remember who was the first man I saw when I went into the place. There were quite a few people there. The first man I spoke to was a man known to me as Kelly—Mr. Arko. (In response to the question "Didn't you tell us on direct examination that you were met as you went inside by Nick Jurash and that he conducted you to a booth, the witness answered "You asked me who I spoke to".) I first spoke to Arko. I don't remember what happened

then. We were taken to a booth and one waiter—(in response to the question: “you testified on direct examination it was Nick Jurash, was it, or somebody you don’t remember who it was,” the witness answered: “to the best of my recollection it was Jurash.” (At this stage of the proceedings three bottles concerning which there had yet been no testimony were marked respectively Governments Exhibits 5, 6 and 7 for identification).

On May 4th we first went to the premises at 6:30 P. M. Agent Casey and Agent Casey’s wife were with me. This was not the first time I saw Kelly. The first man I spoke to on entering was the defendant Arko or Kelly. Then Nick Jurash conducted us to a booth. I am not sure on that night whether it was Jurash or another waiter who actually waited on our table. Agent Casey purchased a pint of whiskey there in my presence on that night. He got it from Arko. If I remember correctly, he ordered it from the waiter and Arko delivered it to him. I don’t know who the waiter was. That pint of whiskey is all the liquor we ordered that night. I don’t recall the amount of the bill. Casey paid the bill. I saw the check but did not read it. He handed it to Agent Casey. I saw him hand it to Agent Casey and paid no further attention to the bill. This cafe was a completely equipped restaurant. It sold food, almost any kind of food you wanted to order. I don’t know anything about the stock, the equipment was there. Any kind of food you ordered you always got and there was quite a considerable selection on the menu. As I recall, it was very good food. The next time I went there was on the 13th of May and I went there with Agent Casey and Mrs. Casey. We got there about 6:30 P. M. I don’t remember who the first person was that I spoke to after entering the cafe that time. We saw Arko and

Govarko and Jurash on the 13th. I don't remember whether I saw Mr. Govarko on May 4th or not. I am positive that I did see him on April 30th. I don't remember whether I saw Mr. Govarko on May 4th or not, but I did see him on the 13th and also Jurash. I don't think I saw Jurash on the 30th of April. One gentleman waited on me. I did see Jurash on the 4th and 13th and he waited on me on the 13th. He wore a waiter's uniform. On the 13th, Agent Casey ordered a pint of whiskey and it happened to be Jurash that night. He took the order for the whiskey as well as for the food. The whiskey was ordered first and then Mr. Govarko brought the whiskey on May 13th. All three ordered dinner and Agent Casey paid the bill. I looked at the bill but don't know how much it was. Its in the records but not on my expense account. In the notes as to what happened I made no note as to the amount of that bill. On the 15th of May we got there about 8:00 P. M., myself and the other prohibition agents and we took with us a Deputy United States Marshal and we had with us both a warrant for the arrest of these men and a search warrant. The deputy marshal had the warrant for the arrest and I had the search warrant. I am not sure but I think I signed the affidavit upon which the warrant of arrest was issued. The warrant might not have named these defendants definitely, their names might have not been known to us definitely at that time. I couldn't say unless I saw the warrant. I didn't know the full names of these defendants. I am sure we probably knew their first names and fictitious names. We got their names by questioning them afterwards. We had enough of the name, part of the name, before they were arrested. Arko gave me a fictitious name the first trip I went there. He said his name was Kelly. He did not at that time tell me what his full name was. After

we arrested him and I asked him his name he gave it to me. After he told me, I regarded Kelly as his nick name. I heard others call him Kelly and I know that his nickname was Kelly. I did not hear the men in the cafe call him Kelly. I heard a person inside call him Kelly. He said this is Kelly and after that I called him Kelly. I don't recall that I heard anybody else call him Kelly. Govarko said his name was Tony. I don't know whether that is a fictitious name. I notice in the indictment his name is given as Tony Govarko. I don't know that I would consider that simply his first name.

EXAMINATION BY THE COURT

When I used the words fictitious names I meant nicknames; Arko going under the name of Kelly and Govarko as Tony. Panzich's name is Tony. There were apparently two Tony's at the place. My first meeting with Panzich was on April 30th and that was the case with all of the other defendants. The reason I came to examine this place in the first place was that a complaint came into our office and I was sent out by our office. I am on the regular detail of the prohibition service and regularly in that service for two years. In pursuance to my duties, I went out to secure evidence against this place. On my first visit, May 15th, I had a search warrant. That is about the story.

FURTHER CROSS EXAMINATION

BY MR. GRAHAM:

Up until the time of arrest when I asked these defendants their names, I didn't know the full names of any of them, except Panzich. I personally made the search of this place after the arrest in company with the other agents. I personally assisted in the search. I didn't find the whiskey or see it found. I personally

found the bottle of wine in the safe. I made an examination of it at that time. The quart of wine which Agent Casey bought there in the cafe when I was in the same party was apparently consumed on the premises. In other words, we drank it with our dinner.

REDIRECT EXAMINATION

BY MR. ROWELL:

I tasted the bottle of wine that we seized that night from the safe. I have been on the prohibition service for over two years. In the course of my duties it has been incumbent upon me to determine whether or not beverages contain alcohol in excess of one half of one per cent. Ever since the beginning in the service I have had occasion to taste wines and liquors and see if they were alcoholic. (In response to the question "and would you say in view of your experience that the wine taken from the safe that night, did or did not contain over one half of one per cent of alcohol by volume" the witness answered "The only thing I could say is it tasted like wine"). It was palatable. On two occasions, April 30th and May 15th, I saw Panzich on those premises when I was there. On the occasions when I did order dinner and liquor the money given in payment of the bill was given to the waiter. We couldn't see what he did with it. He would take it with the bill and leave the table and return with the change.

EXAMINATION BY THE COURT

Wilson was arrested on the 15th. That was my first meeting with Wilson. On the 15th is the only time I saw Wilson. When I saw Wilson, Agents Casey and Waite had him under arrest and had brought him out into the dining room.

RE CROSS EXAMINATION

BY MR. GRAHAM:

That wine was red wine. I couldn't tell by the taste. My experience as a prohibition agent has not taught me to distinguish between the different kinds of wine. I tested it by tasting it, but I could not tell you whether it was sweet or sour. I don't remember that.

HOMER F. CASEY

a witness on behalf of the plaintiff testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I am a prohibition agent and have been in the service about four years. I went to certain premises in Santa Monica known as Tony's Goodfellows Inn. The first time I went there was May 4, 1931. Mr. Brooks and my wife were with me. On arriving at those premises we were shown to a booth, and were seated, and gave an order for some food. As I recall, it was Mr. Govarko who conducted us to a booth, and as he seated us, Mr. Kelly spoke to Mr. Brooks, spoke to us rather. A man known to me as Kelly—Mr. Brooks later introduced him as Mr. Kelly—was present at that time. After we placed our order for the food, we ordered some—the waiter to the best of my recollection was Mr. Govarko. We ordered a pint of whiskey and he said, "All right". He walked away and that is when we met Kelly. He came over to the booth and we repeated our order to him/ I was introduced to him. I don't remember the name they gave for me. It wasn't Casey, some name, and we shook hands and I told him I wanted to get a pint and he said "All right". In a few minutes he came back with a pint of whiskey—the man known as Arko

or Arkovitch. Arko it is here. He delivered that to us personally. Walked into the booth and sat it down on the table. After that occurred we had our food and finally called for a bill and the waiter gave us the bill. To my recollection it was Govarko and at the top was whatever the meal was, whatever food we had, and "B. R. K." at the bottom. I don't necessarily mean right on the bottom of the bill, but below the food. The price of the liquor showed as though it could have been food. This "B. R. K." was made as an entry as though it could have been food, and then in the item column where the price should be was \$2.00. We also had a conversation about the price. That was when I had made the order for the liquor. He told me there were various prices for the liquor and I told him I wanted the \$2.00 liquor. He said some was \$2.00 and they had Bourbon for \$5.00 and I told him I would take the \$2.00, that I think I couldn't afford the \$5.00 liquor. I paid the amount of the bill to the waiter who served the food. Outside of leaving the booth with the money, I don't know what he did with the money; he came back later with my change.

I have seen the bottle which is government's Exhibit 2 for identification. That is the bottle I purchased on May 4, 1931. After I left the premises it was turned over to the warehouse. It was in my possession from the time it was taken from the Goodfellows Inn to the time it was turned over to the warehouse. The contents were the same as they were when I had received the bottle from the Goodfellows Inn. The next time I visited the premises was on May 13th accompanied by the same parties. When we went into the premises Nick Jurash conducted us to a booth, and I don't recall whether we saw Kelly at that time or not, but we later

ordered a pint of whiskey and Mr. Kelly came to the booth. After we had ordered the whiskey. I mean Arko. Mr. Arko came to the booth, and we ordered a pint of whiskey and also a quart bottle of wine. We ordered the whiskey and as Mr. Arko brought that we ordered the wine from Mr. Arko. He returned to the table and opened the bottle. We also had food served to us on the premises. We received a statement for our food and other purchases. Other than a charge for the food was listed on that statement \$2.00 for the liquor and \$2.50 for the wine. The bottle which is Government Exhibit 3 for identification is the bottle of whiskey I purchased on May 13, 1931. At the time we left the cafe it was in my possession. I locked it in my personal locker until I took it to the warehouse of the prohibition department. During the time it was in my possession the contents of the bottle were not changed in any manner. We paid the waiter on the evening of May 13th. I don't know what he did with the money. He took the bill and the money and brought back my change. The next time I went to those premises was on May 15th accompanied by Agent Waite and my wife. After we went into the premises, Wilson showed us to a seat in the booth, and we were seated, and we ordered some wine, or some whiskey, and Mr. Arko came in. Wilson showed us to a seat and we ordered some whiskey and Mr. Arko came in and returned with the whiskey and then Mr. Wilson had served us with the food, and after we were through eating I paid him and expected him to go to the cash register, but he didn't go. He took the money out of his pocket to make my change and counted my change out on the table, and when he did I immediately placed him under arrest and seated him in the booth. Prior to paying, I had taken the

numbers off of the bills. I expected him to go to the cash register, but that's the only time he didn't leave my table. After that Waite and I recovered the money. We compared it with the numbers we had written down. It was the same. I do not have that money now. Agent Waite took the money and if I took anything else I don't recall it at this time. Waite took the money which I had just paid him which we had marked. When we called for the bill, it was arranged that my wife would get up and leave the premises and that was the signal for the other prohibition agents to come in. Agents Clements and McDonald and Agent Brooks was outside, and another gentleman by the name of Banta, and there might have been some more, I don't know. After we placed Wilson under arrest the premises were searched and Agent Brooks came in with a Deputy United States Marshal and in the back of the premises in a bin we found several empty bottles and cases for whiskey bottles and in one of these bins we found the pint of liquor practically full. These intoxicants I saw. A bottle, Government's Exhibit 5 for identification, is the bottle which I purchased the night I arrested Wilson. That bottle was in my custody from the time it was purchased from Wilson and later turned over to the Government warehouse. It was in my custody from the time it was received from Wilson until it was turned over to the warehouse. During the time it was in my possession there was no change made in the contents of the bottle. The bottle, Government Exhibit 6 for identification, is the bottle I found in the bin in the side of the building at the Goodfellows Inn. I retained it in my possession until I turned it over to the warehouse, the custodian of the Prohibition Department. From the time I first took that bottle into my possession until I

turned it over to the warehouse there was no change made in the contents of the bottle. It was in my possession all of the time between those two times.

I can identify this piece of paper by my initials at the bottom of it. I received it on the night of May 15, 1931 from Wilson. That was taken from Wilson immediately after his arrest. That is the bill which he presented to me which I called for immediately preceding his arrest. (The bill was then introduced as Government's exhibit 8). Agent Waite and I recovered that from him. Government's Exhibit 8 was read by Mr. Rowell as follows:

"Goodfellows Inn, Elks Club Building. 3003 Main Street. Ocean Park, California. 2 R. Pash - at a price of 70 cents; 1 Banana 35 cents; 1 B. R. K. \$2.00; 2 coffee 10 cents; total \$3.15. Please pay waiter. If not satisfied, please report to manager". (Mr. Rowell then stated that the word "pash" he couldn't make it out. Maybe your Honor could).

EXAMINATION BY THE COURT

I first went there in April and was introduced first to Arko. I was admitted to the booth by Govarko and we placed our order with him for the pint of whiskey and he sent Arko to us. That is the whiskey which was brought to us by Arko. That is about what happened on the 4th. I went again on the 13th, and placed that order for liquor first with Jurash and then Mr. Arko came to us and got the order. He was the second man to receive that order and it was brought to us by Arko. We paid Jurash, the waiter who served us the food and then on the 15th when the arrest took place. I was sold the liquor by Arko and paid Mr. Wilson. Wilson had first taken the order for the liquor, and apparently the only

thing I could understand about it is that I placed my order for liquor with Wilson and he sent the man to me who brought the liquor and then he received the money for it. He collected for it. That was on the 15th. I don't recall seeing Wilson on the 4th or 13th. In brief, that is my story.

EXCEPTION NO. II.

CROSS EXAMINATION

BY MR. GRAHAM:

Q Mr. Casey, you were present in the court room this morning, seated on the other side, outside the rail, when the court called the names of these defendants and had each defendant stand up as their names were called?

A I walked in as that was going on.

Q You were seated there?

A No, I walked in.

Q And while the names were being called and each defendant stood up you were referring to notes you had in your pocket?

A No, I haven't any notes. I just merely read the case report on this here case.

Q You have the case report on this case?

A No, I haven't; I said I read the report.

Q Well, weren't you referring to some paper in your pocket while seated in the front row during the time the court was calling the names of each defendant and had each defendant arise as his name was called?

A I was just sitting down there as the names were called.

Q You heard them called and saw the defendants arise?

A I saw the last two men get up.

Q And didn't you refer to some paper in your pocket at that time?

A Yes

And what was that you referred to?

A I was referring to the bulletin here in my pocket. Do you wish to see it?

Q Does that bulletin refer to this case?

A No, it does not.

Q Have you any papers in your pockets that relate to this case?

A No, sir.

Q Did you have at that time?

A No, sir. Here they are (indicating pockets).

Q And you stated positively you were only present in the court room when the last two names were called?

A When the last two men stood up. I had just sat down as the last two men stood up. I heard the names called, but didn't hear the first two names called.

I have heard about Tony Panzich ever since I have been in Los Angeles, two years. On the night of May 13th I first learned that that man was Tony Panzich. I didn't know positively then it was him. I heard somebody say it was Tony Panzich. On the night of May 13th was the first time I had ever seen Tony Panzich. I first learned that one of the defendants was Tony Govarko the night of the arrest. I had first seen Tony Govarko on the night of May 4, 1931. I recall Tony Govarko as a waiter in that restaurant and first learned his name was Tony Govarko at the time of the arrest. I have never talked to him since the arrest. I first learned that one of the defendants was Nick Jurash on the night of the arrest. I first saw him on the night of May 13th working as a waiter in that restaurant. I first learned that one of the defendants was named John

Arko the night of the arrest. I first saw him on May 4th. To my knowledge, I haven't ever talked with any of these defendants since the time of the arrest. I don't recall it. The next time I saw them or any of them was at the preliminary hearing, the next morning after the arrest. I have seen Kelly, I don't recall the date, but approximately three months ago. I have never seen Nick Jurash or Tony Govarko between the time of the preliminary examination and this morning. When I refer to the preliminary examination I meant the arraignment before the United States Commissioner. It wasn't a preliminary hearing. I didn't testify there. I don't recall, but the defendants might have waived preliminary examination. That bin in which I found some empty bottles and a bottle partially filled with whiskey wasn't even in that building. It was up next to the back of the wall, but not in the building. This cafe didn't occupy that whole building. There were several other things in the building, including the Santa Monica Elks Club. I think there was a store or two in the building.

HARRY J. WAITE

a witness on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I am a Federal Prohibition Officer and have been in the service a little over two years. I went to the premises in Santa Monica known as "Tony's Goodfellows Inn" on May 15, 1931, accompanied by Agent Casey. Agent Casey and myself and Mr. Casey's wife went in and met Mr. Panzich, and he escorted us to the booth, and we sat in there and a waiter came up, and we ordered three meals, and then as the waiter started

away, Agent Casey asked him if we could get a pint of whiskey, and he looked at me, and Agent Casey said, "Oh, he is a friend of mine." Then the waiter said, "All right" and went away. Pretty soon, another man came down and pushed the curtain over a little bit and handed Agent Casey a pint of whiskey and went away. Then the meal came, and we had that, and after we got through, the waiter came and handed Mr. Casey a check, and Mr. Casey said, "What about the whiskey?" and he said, "It is all on there" and we paid him with a \$5.00 bill marked money. I had the serial numbers in my book, so as soon as he gave Mr. Casey the change, I told him he was under arrest, and I checked the numbers with the serial numbers in my book, and Mrs. Casey went outside and notified the other agents outside, and they came in and helped search the place. The bottle, which is Government's Exhibit No. 7 for Identification, was taken out of the safe by Agent Brooks during the search after the safe had been opened by Mr. Panzich. It was then brought to the office and put in the Evidence Room I believe. I didn't see it after that. After the arrest, the person who was waiting on our table said his name was Wilson. I had never seen him up to that time. I might recognize him if I saw him now. I am not sure. I have not seen him since then only here in Court. I think I see him here now. I didn't learn the name of the person who came to the booth with the pint bottle the night that Agent Casey and myself were there. I don't believe I would recognize him if I saw him again. I only saw his head and shoulders as he pushed the curtain aside.

CROSS-EXAMINATION

BY MR. GRAHAM:

I don't remember what I ate that night, maybe pot beef or something like that. I am just guessing about that, because I don't remember just what it was, because it was a regular dinner on the menu. I suppose it was a regular dinner. We ordered it off the menu. I am not so sure whether I ordered it a la carte or not. I think mine was a la carte, because I had eaten before I went there. I just tasted of the whiskey that night to be sure it was whiskey. Agent Casey asked the waiter about the price of the whiskey, and the waiter said something about two kinds, one for \$2.00 and one for \$5.00, and we said we would take the cheaper one. We were there just long enough to eat a meal before the arrest took place, maybe fifteen or twenty or twenty-five minutes, something like that. We went in at eight o'clock, and if I remember right the other boys came in about half past. When we entered, Panzich did not meet us at the door. He was at the desk inside, about the center of the place. He was standing there. We walked in, and he was standing at the desk. He showed us to the booth and seated us there at the table. It was only a few minutes before the waiter came over. The waiter presented the bill to Mr. Casey, and Mr. Casey gave him a \$5.00 bill. The waiter didn't have much chance to do anything with it. I told him he was under arrest and recovered it. He had it in his hand. I suppose he was going to put it in his pocket or take it to the desk. I didn't give him a chance to do anything else with it. He had made change. Mr. Casey took the change, and I saw Mr. Casey give the waiter back his change. I don't know how much change he gave him.

I didn't count the change. The bottle that was found in the safe, was taken out of the safe, not from a shelf above the safe. I saw the gentleman when he took it out. I am positive as to that.

EXAMINATION BY THE COURT:

I think I identify the waiter. I think he is the second one over there in that row, from the left hand side (indicating the defendant Joe Wilson). He was the one that Mr. Casey gave the \$5.00 to and the change to, and I recovered it. Mr. Panzich was there at the desk and showed us to the booth. We ordered the liquor from the waiter and this other man brought it to the booth and handed it inside. The waiter came to our booth, and we ordered the dinner from him. I identify the second person (Mr. Wilson) as the waiter; and then Mr. Casey had some talk with him about whiskey prices, about there being two kinds, \$2.00 and \$5.00, and then ordered from him the \$2.00 kind, and then this third man—I don't remember who it was, as I only saw his head and shoulders,—came and handed the whiskey to Mr. Casey and left immediately. I don't know whether the third man, who actually delivered the whiskey, is present or not.

THOMAS ROBINSON

a witness on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I am Secretary-Manager of the Elks in Santa Monica, and was acting in that capacity during the year 1930 and '31. During the course of that time I met Tony Panzich. I leased the cafe, which he was operating at 3003 Main Street, in the Elks' Building, at

Ocean Park, to him. Government's Exhibit No. 9 is a lease between Santa Monica Lodge No. 906, Benevolent and Protective Order of Elks and Tony Panzich. (By the terms of this lease, the Elks Lodge leased to Tony Panzich the premises upon which Tony's Goodfellows Inn was conducted, together with all furniture, furnishings, dishes, silverware, linens, and equipment enumerated in an inventory attached thereto; also storeroom No. 8, fronting on Pier Avenue, being No. 208 Pier Avenue. Said lease commenced on the 18th day of August, 1930, and ended on the 18th day of August, 1931, the aggregate rental being \$2,820.00, payable \$470.00 upon the acceptance and signing of the lease and \$235.00 per month in advance for each of the succeeding ten months.) Mr. Panzich went into possession of those premises a few days before the date of the lease. He got ready a little bit ahead of time and took possession then. It was all right with us. He vacated the premises on the 15th of September, 1931. As far as I know, he was continuously in possession of those premises between those two dates. In my capacity as manager of the club, I received the rent for those premises from Mr. Panzich for every month.

EXCEPTION NO. III.

“Q After the time the lease was executed was any security given you for the faithful performance of the lease?

A Yes, some trust deeds, which I have here, trust deeds to property.

Q And by whom were those delivered to you?

A Mr. Panzich.

Q Was any other person present during the negotiations, that is, anyone other than on behalf of the

Elks Club and this lessee at the time these papers were delivered?

A I don't believe so; I don't recall that.

(Defendant's counsel inspects papers handed him by the witness.)

THE COURT: Do you deem those material, Mr. Rowell? The witness testified the lease was made with the defendant Panzich, and that he went into possession and that he paid the rent.

MR. ROWELL: Yes, your Honor, I think this is material in some other matters.

THE COURT: All right.

MR. ROWELL: I will offer them in evidence.

THE COURT: Any objection?

MR. GRAHAM: Just what deeds are you offering in evidence?

MR. ROWELL: The two corporation grant deeds which were delivered to Mr. Robinson by Mr. Panzich as security for the lease.

MR. GRAHAM: Well, I object to the introduction of those grant deeds, upon the ground they are entirely irrelevant and immaterial.

MR. ROWELL: If your Honor cares to see them—I think I can state the points they bring out other than the lease itself. The grant deeds vest title in John Arkovitch and Tony Panzich, and the lease was given by Tony Panzich, and John Arkovitch, I believe, is the same person as Arko, indicted here.

THE COURT: Well, that is a deed to the Elks organization?

MR. ROWELL: No, it's a deed from the Title Guarantee and Trust Company to John Arkovitch, John Panzich and Tony Panzich, which deeds were de-

livered to the Elks organization as security for the performance of the lease now in evidence.

THE COURT: Well, the mere delivery of the deeds would not make them security.

MR. ROWELL: I am not talking about the legal question. That's the purpose for which Mr. Robinson said they were delivered.

MR. GRAHAM: I fail to see how they could secure the Lodge.

THE COURT: Of course, in one way they would not be material.

MR. GRAHAM: Unless they had some intrinsic value of their own.

THE COURT: Well, of course, the deed has never been recorded?

MR. ROWELL: No, your Honor.

THE COURT: Well, your contention, of course, is that John Arkovitch and John Panzich—John Arkovitch, at least, is a defendant in this action?

MR. ROWELL: Yes, your Honor.

THE COURT: Well, let it be admitted in evidence.

MR. GRAHAM: Well, your Honor, there is no evidence of that fact.

THE COURT: Not so far, unless there is a presumption from the identity of names.

MR. GRAHAM: But there is no identity of names.

MR. ROWELL: I believe that Agent Casey testified while he was on the stand that he was known as Arko, Arkovitch and Kelly.

THE COURT: Yes, let them be admitted in evidence.

MR. GRAHAM: Exception.

THE CLERK: Government exhibit 10."

EARL G. BLEAK

a witness on behalf of plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

My name is Earl G. Bleak. I am Pro-Manager Security First National Bank, Ocean Park. I have here under subpoena the records of the bank in regard to the account of one Tony Panzich. I have here the signature card executed upon the opening of the account. The account was carried under the name of Tony Panzich, although the checks were imprinted with the name "Goodfellows Inn by Tony Panzich." No one else was authorized to draw on that account. This bank is located on the Corner of Pier Avenue and Trolley Way, 168 Pier Avenue, Ocean Park. That is one block west of 3003 Main Street. (At this stage of the proceedings, it was stipulated by and between counsel that, if the custodian of the Government Warehouse were called, he would testify that he has had possession and custody of these various bottles which have been marked as Government's exhibits for identification, and that they are now in the same condition they were when he received them. It was further stipulated that if Mr. Stribling, the Government Chemist, were called to the witness stand, he would testify that the bottles which were marked Government's Exhibits 2, 3, 5, and 6 for Identification, contain alcohol in excess of one-half of one per cent by volume and are fit for beverage purposes. Whereupon Exhibits 2, 3, and 5 for Identification were offered and received in evidence as exhibits bearing those numbers. Government's Exhibit No. 6 for Identification was then offered in evidence, to which offer counsel for the defendants objected, and the ob-

jection was sustained. Whereupon the plaintiff announced that it rested, after which the jury retired while the following proceedings were had in the presence of the Court, but in the absence of the jury.)

EXCEPTION NO. IV.

MR. GRAHAM: If the Court please, on behalf of each defendant, I move the Court to instruct the jury to bring in a verdict of not guilty, on the ground that the evidence is insufficient to warrant a verdict of guilty. (The matter of the foregoing motion was discussed by the Court and by counsel for plaintiff and defendants.)

THE COURT: I think that there is plenty of evidence to sustain such a finding, and the motion is denied.

MR. GRAHAM: May the record show an exception to the denial of the motion.

THE COURT: Yes, sir.

TESTIMONY ON BEHALF OF THE
DEFENDANTS

NICK JURASH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

I am one of the defendants in this case and reside at 6935 Denver Avenue, Los Angeles. I have lived in Los Angeles about twenty-two years. I am acquainted with the defendant Tony Panzich; have known him since the 25th of May, 1931, the 15th of May, 1931, beg pardon. I first met him at Tony's Goodfellows Inn, Ocean

Park. That was the day I was arrested in this case. The circumstances under which I met him were these: I wasn't working then, and Mr. Restovich I went to his house to dinner that day on the 14th of May, and he says that he knew Mr. Panzich and if I wanted to take a ride with him to Santa Monica, he would see what he could do, if I could get a job, with the summer season coming on, that I had a chance. The last job I had up to that time as a waiter was in 1921. I had had some experience as a waiter. I then went with Mr. Restovich to this cafe. He took me in his car to the Goodfellows Inn in Ocean Park, on the 14th of May, about eight o'clock, eight-thirty in the evening, and he went in with me. My wife and two daughters were sitting in the car outside. They were parked outside the cafe. Mr. Restovich then introduced me to Mr. Panzich, and I discussed employment with Mr. Panzich. He told me to come back to work the next day, the 15th, at five P. M. I went back to work there at five P. M. on the 15th and was arrested the same evening. I never knew where that cafe was before that and had not been in it before that. I did not know Mr. Panzich at all before that. Before that I was painting two houses, my own; and when I got through with my own Mr. Muhn asked me, he said, "Now will you paint mine?" and he said, "Mine needs painting very bad", and I said, "Yes, I am not doing anything." He said, "Go ahead." I then painted Mr. Muhn's house. I finished painting it on the 13th of May, about two or two-thirty in the afternoon. I had been working painting his house six and a half or seven and a half days, I don't know which. It was raining then, and probably a couple of days in the rain I didn't paint then, but with the exception of the days it rained, I worked steadily painting his house

until I finished it, and it took six or seven days. I painted two coats on the outside and one coat on the inside, and the ceilings. I never saw any of those Prohibition Agents, that testified here, before the night I was arrested. I never sold any of them any whiskey. I never waited on any of them in that cafe.

CROSS-EXAMINATION

BY MR. ROWELL:

On the 30th of April, 1931, I was painting my house. I had two houses, and I was painting them both outside, and I wouldn't recall whether it was raining on the 30th of April or not, but if it wasn't, then I was painting my house then. I worked until that time on the sewers, but on the 30th of April I was not doing anything besides painting my house. I was not in Ocean Park or Santa Monica on the 30th of April. I was at the Goodfellows Grill or Goodfellows Inn, at 3003 Main Street, Santa Monica, about eight o'clock, on the 14th of May, that evening. Before the 14th I was never there. I didn't know where that was. I went to work on the 15th of May, about five P. M. I had never worked at all in that cafe prior to five P. M. on the 15th of May. I was not there on the 4th of May nor the 13th of May. I am absolutely sure of that.

N. B. RESTOVICH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

My name is N. B. Restovich. I reside at 4516 Queen Anne Court, Los Angeles. I have lived in Los Angeles twenty-five years. I have been a cafe owner. I am in the

insurance business the last seven years. I am acquainted with Nick Jurash, one of the defendants in this case. I knew him in April and May of 1931. In the latter part of April and up to the middle of May in 1931, he was painting some houses of his own and some of his neighbor's, I don't recall the name. I am acquainted with the defendant Tony Panzich. I have known him about fifteen years. I saw Mr. Panzich on the 14th of May, 1931, in his cafe, in Santa Monica. I went there about eight or eight-thirty in the evening with Nick Jurash and his wife and his daughter. Mr. Jurash entered the cafe with me and I introduced him to Mr. Panzich. At that time Mr. Jurash was not working in that cafe. He had not been working in that cafe a few weeks prior to that time. At that time I had a conversation with Mr. Panzich about Mr. Jurash working there. I have asking him if he could give Mr. Jurash a job, that he needed it because he had four or five youngsters, and that he used to work for me years ago and was a very good waiter, so he answered and said to come the next day and he will try him out to see what he could do for him. Mr. Jurash and I had a cup of coffee and a sandwich on the counter and then left about eight-thirty or nine o'clock. Mr. Jurash had never worked for Mr. Panzich in that cafe before that. That was the first time I had ever been to that cafe. We looked all around Santa Monica and went over to the old Elks' Club looking for it. I had heard of it, but didn't know the location of it.

CROSS-EXAMINATION

BY MR. ROWELL:

I am positive sure that Mr. Jurash had not been working there before. To my knowledge Mr. Jurash

wasn't doing anything after he got through painting the house in the afternoon. I do general insurance work of all kinds, fire, theft and burglary. I am connected with Molin Cressey's concern. I remember very well the day on which Mr. Jurash was arrested. He called me on that day—well somebody called after he was arrested. We found the call when we came in. It was late in the morning, Saturday morning the call came in, the 16th of May, the day after his arrest, which was late in the evening or after midnight.

REDIRECT EXAMINATION

BY MR. GRAHAM:

I know positive it was the 14th of May when I took him down and introduced him to Mr. Panzich and on the 15th, the same day, when he went to work, he got arrested.

MRS. KATY JURASH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

I am the wife of Mr. Jurash, one of the defendants in this case. I have been married to him about twenty-three years. I reside at 5635 Denver Avenue and have lived in Los Angeles twenty years, and at that address about eighteen years. I lived at that same place on the 4th of May, 1931. During the later part of April, 1931, my husband was painting houses. We had two houses, both in the same neighborhood on the same lot. My husband had been painting those two houses. I couldn't tell you when he started painting them, but it took him three or four weeks. He worked for several weeks at it.

After he finished painting those two houses of his, he painted the house next door for Mr. Muhn. I think he worked at that about a week. I don't know how many days; because of the rain, he stopped sometimes and came back again. I remember when he went to work as a waiter in the restaurant at Santa Monica on the 15th of May. I remember the time he was arrested in this case, the same night he went to work. That was the first time he went to work in that restaurant. He had never worked there before. He finished painting Mr. Muhn's house the day before, on the 13th. I went with Mr. Jurash and Mr. Restovich and my daughters down to Santa Monica on the 14th. I don't know what time of day that was. We left the house about five o'clock and got down after six. I don't know—early in the evening. That was the time he went down there to see if he could get a job. It was the next day he went to work. They told him to come and try it to see if he could do a good job. I am positive that he had never worked in that cafe before the day he was arrested, and he never knew the people either.

LENA JURASH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

I am the daughter of Nick Jurash, one of the defendants. I go to Fremont High School in Los Angeles. I remember the time in May, 1931, when my father was arrested in this case. He went to work at the cafe in Santa Monica about five o'clock of the same day, the 15th of May, 1931. That was the same day he was arrested. My father had never worked in that cafe before

that day. Before that, he was painting our own houses and Mr. Muhn's. He painted our own first, and then painted Mr. Muhn's house. He finished his work painting Mr. Muhn's house on the 13th. On the evening of the 13th day of May, when he finished painting that house, Mr. Muhn came to our house and paid my dad for painting the house. I don't recall how long Mr. Muhn was there that evening. I wasn't there all the time. The next day, I went down to Santa Monica with my father and Mr. Restovich. We went to Ocean Park to the Goodfellows Cafe. That is where my father went to work the next day.

JOHN MUHN

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

My name is John Muhn. I reside at 6929 South Denver, in Los Angeles. I have lived in Los Angeles about five years. I am retired. Before I retired, I had a ranch in Pennsylvania. I am acquainted with the defendant, Nick Jurash, and live right beside him. I have lived beside him for five years, all the time I have been living here. In May, 1931, he painted my house inside and outside. He did that in May, about the first part of May. It took him seven days. He finished on the 13th of May in the afternoon, between two and three o'clock. On these days when he was painting the house, he worked all day at it painting it. I paid him for that work around supper time, around six o'clock. I paid him \$5.00 a day, and he worked seven days. I paid him \$35.00 right in his kitchen. His wife was there. He was at home that evening. I paid him. I stayed there about

half an hour. It got dark, and I couldn't see him around there any other time that evening. During the time he was working there painting my house, I don't think he was working at any other place during that time. He worked eight or nine hours a day painting. I have always seen him around there occasionally in the evenings. He was tired out and couldn't go any place. I have seen him around home in the evenings during the time he was working painting my house. Before he painted my house, he painted his. I saw him working on his house every day.

JOSEPH N. WILSON

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

I reside at 833 South Grand, Los Angeles. I am a married man, but I am not living with my wife. I am one of the defendants in this case. I was employed at Tony's Goodfellows Inn in the month of May, 1931, and on the 15th of May, 1931, that's the date on which I was arrested in this case, I went to work that day at eleven o'clock in the morning. I saw Mr. Casey, one of the Prohibition Agents who testified in this case, but I wouldn't recognize Mr. Brooks. I first saw Mr. Casey on May 15th at eight-thirty in the evening at the Goodfellows Inn in Santa Monica. When I first saw him, he was sitting in the booth at my station. I was working there as a waiter. That was the booth I was working on. There was one other gentleman and a lady with him. Mr. Brooks, who was on the stand this morning, was not the man who was with him. I think the heavy-set gentleman, Mr. Waite, was with him. I recognize Mr.

Waite as the other man that was with him. I was not acquainted with the lady and had never seen her before to my recollection. I do not remember ever having seen Mr. Waite or Mr. Casey before that evening. I served them with water and took their order and served them. I do not recall what their order was. I was waiting on several other tables that evening, and all these other tables were occupied. I was very busy taking care of seven tables. I don't recall what they ordered, but they ordered a dinner, and I served it to them. None of them said anything to me about whiskey or intoxicating liquor, and I said nothing about intoxicating liquors to them. It was not mentioned at all between us. No one else in the cafe approached the table while I was there, not in my presence or to my knowledge. After I served them, I presented them with a bill. They gave me three \$1.00 bills, and Mr. Casey gave me the money, and I went to pick it up, and he showed me his star, and he said I was under arrest. I said, "For what?" and he said, "For the sale of a pint of whiskey." I said, "I didn't sell it and don't know anything about it"; and he said, "You are under arrest;" and he told Mr. Waite to place me under arrest and turn me over to the marshal. The money was laying on the table, and Mr. Waite picked it up. When I didn't take the money, he seized me and took it and said: "You are kind of tough;" and I said, "No, I am not, but I don't want to get framed." I had started to give him the change when he placed me under arrest. The money was never in my possession. There was a bottle part full laying on the bench. In these booths there was a bench on each side of the table, instead of chairs, and this bottle partly filled was laying on the bench beside Mr. Casey. That was the first time I had seen it. I did not bring it there

and do not know who did bring it there. After I was arrested, some other officers came in. They were already in when they took me out of the booth. They placed Mr. Panzich and Mr. Arko and the other two gentlemen under arrest. I am acquainted with the defendant Nick Jurash. That day was the first time I ever met him. He was employed there. He started to work at five o'clock on the day of the arrest. He had never worked in that cafe before to my knowledge. I had been working there since January 1st. During the interval from January 1st to May 15th I worked there continuously, and Mr. Jurash did not work there during any of that time. I never saw him in the cafe before the 15th of May. I am acquainted with the defendant Tony Govarko. I served him this night. He was never employed in that cafe while I was there. During the time I worked there from January 1st to May 15th, 1931, Tony Govarko was never employed in that cafe. He was in the cafe as a customer. I saw him in there two or three times. On the evening of the 15th of May I served Govarko at the counter. I don't recall what I served him. His check was 65c I think. It was for food. He had a steak and cup of coffee. He was arrested that night along with the rest of them. I was not personally acquainted with him; just served him as a customer.

CROSS EXAMINATION

BY MR. ROWELL:

I waited on Govarko that night, May 15, 1931. I do not know whether that is the check that I gave to Mr. Casey or not. We had several checks and they disappeared, and several checks were taken from the file and cash register. That might have been a check that is one of the kind which we gave to our customers there. I

think that is my hand writing on that check. The initials "B. R. K." mean one roast Kosher chicken. We featured the roast kosher chicken to take out. The initials "B. R. K." that means roast kosher chicken and that ticket is to take out for \$2.00. I don't know whether that other ticket indicates one roast Kosher chicken for \$5.00, one "B. R. K.". I don't think that is my ticket. Whether I served many people with the same ticket or one ticket for a customer is entirely up to the party. There is one ticket for a party unless they ask for them separately. This other ticket which is Government's Exhibit 4 is not my check so I don't know how many roast kosher chickens are shown. I don't know as those initials stand for the same thing on that ticket as they do on mine. This is not my check. Everybody made a different way of abbreviating. I wouldn't say what those four items for "R. K." each mean on this ticket. I worked there from the 1st of January to the 15th of May. During that time I did not serve anyone with intoxicating liquor. I never saw anyone use intoxicating liquor on the premises. I did not ever serve ginger ale to people there. I never saw anyone drink while they were in that Inn.

REDIRECT EXAMINATION

BY MR. GRAHAM:

Most of the business we did in the evening. We served lunches at noon. We opened at six in the morning but not enough there for breakfast. It was in the same building as the Elks Club. We did quite a business at noon time for lunches. That first item "R. P." means roast pork. The next one that looks like banana or pineapple is baracuda. In the cafe we featured those roast Kosher chickens. They were served all alone. We

did quite a business in selling them to people to take out, and frog's legs and those things all alone. These

EXAMINATION BY THE COURT

initials "B. R. K." I generally put the "B" on when it was to go out of the building. We put the "R" for roast and the "K" for Kosher. They didn't eat it there. It was to go out. I think it was left right there. I didn't serve it. They asked for the check before I delivered it, and put me under arrest before I delivered it. I hadn't really delivered them the roast chicken then. They paid me before I delivered that. Yes. They had finished eating their dinner. Part of the dinner was not roast Kosher chicken. They had roast pork and baracuda and then in addition to that they had roast Kosher chicken but I had not served them with the roast Kosher chicken and yet they paid me. That is not necessarily an unusual procedure. We always serve it last to keep it hot and brought it in when they were ready to go. They didn't give me any three or four one dollar bills. They gave me four \$1.00 bills and I gave them change so I had not gotten any \$5.00 bill at all and they didn't take a \$5.00 bill away from me. They were minus their roast Kosher chicken when the bill was paid and yet

FURTHER REDIRECT EXAMINATION

BY MR. GRAHAM:

they paid for it. And immediately took the money away from me. They laid it on the table, they said I was under arrest and I said, "Why am I arrested?" and they said "For selling whiskey. When they ordered this chicken they ordered it to take home and I was going to bring it to them to keep it hot and they asked for the bill. That chicken was in the process of prep-

aration in the kitchen and that is why they asked for the bill. I put it on the bill.

TONY GOVARKO

a witness on behalf of the defendants testified as follows: through an interpreter, Martin Miklauschutz, said interpreter, being first duly sworn.

DIRECT EXAMINATION

BY MR. GRAHAM:

I am one of the defendant in this case. I am thirty-three years of age and live at 323 South Grand Avenue, Los Angeles. I have lived in Los Angeles three years and in the United States that long. I was born in Austria. I am a laborer. In the month of May, 1931, I was working for Bill Austin, a contractor. He is building houses under different contracts. I was working at 1971 87th Street. That is where I started, on April 15. I was cleaning around the house, digging and cleaning up the grass around there. I worked there for two weeks and then after that he sent me to Montebello. I was doing the same kind of work. He was building a house there as a contractor. I worked there three months. I have never been employed as a waiter. I have never been employed at Tony's Goodfellows Inn at Santa Monica. I was there the day of the arrest. I went there at 10 o'clock in the morning and saw two of my friends that were there. One of them is a waiter there and the other one is a cook. They are Pete Karovich and Nick Bakulich. The 15th of May was the night I was there. I just got through eating and was about to pay for my supper when the officer grabbed me by the hand and placed me under arrest. I was not there on April 30, 1931. I was not there on the evening

of May 4, 1931. I was not there on the evening of May 13, 1931. I saw these prohibition agents who testified here yesterday. I never sold any of those prohibition agents any whiskey in that cafe at Santa Monica. I never saw them before the time they placed me under arrest. I worked for Mr. Austin two weeks at the beginning when I started to work for him, and then I worked three months and a half later and that was all. I speak very little English and understand a little English.

CROSS EXAMINATION

BY MR. ROWELL:

On the night I was arrested the only thing they asked me was how old I was and how long have I been in this country and I didn't understand them about that very well but I answered that way when he was asking me, because they asked the same question of the others. I didn't understand it when he asked it of the others but they told me in the Slavonian language what they asked them. I was thirty-two at that time and that I was not married. I told them I was born in Austria and after the war became Jugo-Slavia. When they asked me how much I weighed and how tall I was and I answered them they were asking me by motions. I didn't see Agent Brooks on the 30th of April down at Tony's Inn in Santa Monica. I am absolutely sure of that. I didn't talk to him and I didn't wait on his table on the 30th of April, 1931, at Tony's Goodfellows Inn at Santa Monica. I learned the name of Casey yesterday and I saw the man—I never saw him before the time he arrested me, and yesterday I learned his name. I was not at Tony's Goodfellows Inn at 3003 Main Street, Santa Monica, on the 4th of May, 1931. I didn't have a

conversation with Agent Casey at that time and place and I didn't see him and I wasn't there and I didn't serve whiskey to him. I was not at Tony's Goodfellows Inn at Santa Monica at 3003 Main Street on the 13th of May, 1931 and at that time and place I didn't have any conversation with Agent Casey, the man who testified here yesterday and I didn't serve him. I wasn't there at all. I was at Montebello that day, all day on the 13th. I was not in Santa Monica during the day of the 13th of May. I was not in Santa Monica at any time during the day of the 4th of May, 1931. That was the first day I started working in Montebello. On the 30th of April, 1931, I was in Los Angeles. That was the day, the 30th, that I was through working for Bill Austin on 87th Street, and then on the 4th I started to work at Montebello. I remember the days because I know it, that's all. I couldn't tell you exactly what day of the week was the 30th of April, it was either Wednesday or Thursday, its so long ago. I don't remember what day of the week was the 4th day of May.

REDIRECT EXAMINATION

BY MR. GRAHAM:

Besides the Slavonian language I speak Spanish. (Whereupon under direction from Mr. Graham the witness exposed the palms of his hands to the jury).

WILLIAM AUSTIN

a witness on behalf of the defendants testified as follows:

My name is William Austin. I reside at 1971 East 87th Street, Los Angeles. It is classed as Los Angeles but it is in the County, not in the City limits. I have lived in Los Angeles since June 24, 1919. I am a gen-

eral construction contractor and have been in that business since 1917. I am acquainted with the defendant, Tony Govarko. He worked for me off and on several times. I have known him over eighteen months or two years. He was employed with me during April and until July or August and also during May, 1931. During the latter part of April he worked on 87th Street. He was fixing the lawn and I had to put in a new cesspool and cleaning the yard. As I recall, he worked there about two or three weeks. He next worked at Montebello. I had to remodel a house and put in an irrigation system and put in 5 cross-sections of floors and leveled the ground. He worked there as a common laborer. We started in at Montebello the first part of May, I can't remember the exact date but it was early in May. It was before the 5th of May. He worked there continuously except some days I wouldn't have any work, common labor, and he would lay off two days a week. He didn't show up to work for two or three days and came back and told me he had been arrested but I didn't go into details. I wanted to know if he would go back to work; that is as far as I know. That was about two weeks after we started. Altogether I had quite a different number of men, 5 or 6. I had plasterers, electricians, plumbers, and two or three other laborers besides him.

CROSS EXAMINATION

BY MR. ROWELL:

One of the other laborers I had was Winfield Husted and the other, if I recall, is Frank Moran. I do not recall all of the other men working on that job. I recall they worked on other jobs before that. The painter, I recall his name. As near as I can recall, Govarko

should have been working for me on the 30th of April, 1931. I couldn't say whether he finished the 30th or the 29th, but it was the last part of the month. The last day of the month or the next day, I couldn't say for sure. It was either the 3rd or 4th of May, Govarko was out there on the job. I have never talked to anyone about what I was going to testify to on the witness stand here today. I didn't talk to Mr. Panzich. Govarko asked me if I would come and testify he worked for me. I did not talk to Mr. Graham, the attorney. I think I have some time books. I have a good many records at home. I might have time books. I keep records of all my jobs.

JOSEPH PAVOLOVICH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

My full name is Joseph Pavolovich. I live at 614 East 4th Street, Los Angeles. I have lived in Los Angeles the last 20 years. I am a painter and decorator and show-case and fixture finisher. I have been employed by William N. Austin, the last witness. I was employed by him in May, 1931, at 87th Street. I was employed on the job at Montebello in May, 1931. I am acquainted with the defendant Tony Govarko. Govarko was employed on this job on 87th Street the latter part of April, 1931. He was employed by Mr. Austin on the job in Montebello in May, 1931. He worked there with me. I did painting. He was doing labor work. Sometimes they didn't have anything for him to do. He didn't work steady every day, but about five days a week average. That was between the 1st and 5th that he was so employed. I never talked to Govarko in

American. I talked to him in Austrian. I never heard him talk in English with anyone. He tried to talk American and likes to learn, but he can't talk very good.

WINFIELD HUSTED

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

My full name is Winfield Husted. I reside at 631 East 23rd Street, Los Angeles. I have lived in Los Angeles ever since 1919. My trade is mechanic, but I work on the building with the laborers, because I can't find a job at my trade. When I can't get a job at my trade, I work as a laborer. I was working for Mr. Austin in the early part of May, 1931. I have worked for him for three years. In the early part of May, 1931, I was working in Montebello building a house. I know the defendant Tony Govarko. I know his name. We called him Tony there. I worked for Bill Austin at that time and on the 87th Street job and I also worked on that job at 87th Street. Govarko was a laborer and worked as a handy man. Same kind of work as I was because when Mr. Austin has some other job I take charge of the job, but when he is there I work as a laborer too, because we cleaned that big 5 acre tract, and we cleaned the whole tract before we built the house. He did that work. He worked the early part of May, four or five days a week, and sometimes got laid off one day. It depends upon how much work there is to do. I remember when Tony got arrested in this case. He told me when he came back to work. He was off three or four days. Before that time he had been working fairly steady, four or five days a week. He talked in Spanish

to me. I speak Spanish. I was born in Mexico. I tried to talk English to him but I could hardly understand what he said but he talked good Spanish.

JOHN ARKOVICH

a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

My name is John Arkovich. Some people call me Kelly for nickname. My nickname is Kelly. People call me Arkovich most of the times, but some people call me Kelly. I never told anyone my name was Kelly. My business is waiter. In April and May, 1931, I was employed in Ocean Park at Tony's Goodfellows Inn. I was employed in Ocean Park at Tony's Goodfellows Inn. I was head waiter. I started work there at the time the place was opened. I don't exactly remember the date. It was about the 17th or 18th of August, 1930. Tony Panzich hired me to work. He was the proprietor of the cafe. My duties as head waiter was to seat the people as they came in the place.

EXAMINATION BY THE COURT

My duties were to seat them. That is all I did. I didn't wait on them. I was just the head waiter, to seat people at the tables. I was not a steward. I was head waiter. Just seated the people, that is all I did there. When the customers came in looking for a table I seated them. That is all I did. Just showed people that came in to eat to the place where they could sit down. That is all I did.

FURTHER DIRECT EXAMINATION

BY MR. GRAHAM:

I didn't wait on any of the tables at all. I am acquainted with the defendant Nick Jurash. I first met him on the night of the 14th. I first met him at Santa Monica in the cafe. His cousin came down there with him and went over to Mr. Panzich and asked him if he could give him a job and he went to work on May 15th, the day of the arrest. He had never worked in that cafe before that. I am acquainted with Tony Govarko. He never worked in that cafe. I saw him there one time May 15th, the day of the arrest. I saw these prohibition agents who testified here yesterday, Mr. Brooks and Mr. Casey. I never sold any of those men any whiskey and I never served them with any whiskey. I don't remember seeing them in the cafe, maybe I did, I don't remember. To my knowledge the only time I seen them was when I was placed under arrest. I don't remember that they were in the cafe before that. When people came into the cafe it was part of my duty to seat them. I seated a great many people while I was in the cafe. Sometimes four or five hundred. Every day it wasn't the same thing. These people might have been in the cafe but I don't remember them.

CROSS EXAMINATION

BY MR. ROWELL:

I did not have more of a responsible position there than head waiter. I wasn't Mr. Panzich's partner. I did not put up part of the security for the lease. My name is John Arkovich. I am the same John Arkovich whose name is mentioned in the grant deed given to the Elks Club as security for the lease. Tony Panzich put up his own security for the lease. I am the same John

Arkovich mentioned in that deed. This is a deed to me and Tony Panzich and John Panzich from the Title Guarantee and Trust Company to certain property in the County of Los Angeles, land. Two different pieces of land, the Easterly 25 feet of Lot 1 and the other is the Easterly 25 feet of Lot 2, 50 feet altogether. Tony Panzich, John Panzich and I bought this land together six years ago. (In response to the question "You and Tony Panzich were working together in another restaurant at that time, weren't you, or operating another restaurant" the witness replied: "I was never in partnership with Tony"). I was working for him, but not as a partner. When he came to make the lease to the Elks Club building at Santa Monica, I didn't know he was going to move down there before he made that lease. He didn't talk to me about moving to Santa Monica until he moved down there. Before he went down to Santa Monica his restaurant was on First Street.

EXCEPTION NO. V.

Q Where was his restaurant before he went down to Santa Monica?

A On 1st Street.

Q Well, that place was closed before you moved to Santa Monica?

A I don't remember if it was or not.

Q Well, you remember when it was padlocked?

MR GRAHAM: Now, just a minute. I object to that, and assign the question as misconduct and error.

THE COURT: You can object all you want—

MR. GRAHAM: I will.

THE COURT: Now, Mr. Graham, don't go very much further.

MR. GRAHAM: I beg your pardon.

THE COURT: This is a legitimate inquiry made at the request of the Court, as you well know, and under circumstances justifying a thorough ventilation of the actions of this witness with a scheme which are, to say the least, a little bit suspicious at the present time, and it will go to the utmost.

MR. GRAHAM: I have no objection to the inquiry being pursued, but I made my assignment.

THE COURT: You have made your objection to it?

MR. GRAHAM: Yes.

THE COURT: The Court is ready to rule.

MR. GRAHAM: I also wish to ask the Court to instruct the jury to disregard the question.

THE COURT: Well, your request is denied. Overruled. Go on.

MR. GRAHAM: Exception.

THE COURT: Go on.

MR. ROWELL: Q Do you remember when the padlock was placed on that place on 1st Street?

A I don't remember the date.

Q You remember that it happened, however?

A I don't remember to my knowledge.

Q You were working for Tony Panzich at the time it was padlocked, weren't you?

A I was working for him. I don't know, when was it padlocked?

THE COURT: Do you say you don't know whether—

THE WITNESS: When was it padlocked?

THE COURT: Q You say you don't know whether it was padlocked or not. Is that correct?

A I don't remember when.

Q You don't remember when what?

A I don't remember when he was out of the place on 1st Street.

Q Do you remember or don't you remember whether the place ran by Tony Panzich was padlocked?

A The place it was closed. I don't remember if it was padlocked or not.

Q Well, it was closed by the Government officers, wasn't it?

A I don't remember.

Q You don't know if it was closed by the Government officers or not?

A No

MR. ROWELL: Q You were working there at the time it was done?

A I was working before.

Q And you knew that they had started proceedings to try and close it up?

A I knew the place was closed, but I didn't know who closed it.

Q Don't you remember testifying here in the proceedings to try and close it up?

A No.

Q Weren't you here with Tony Panzich on that day?

A No, sir, I was not.

Q How long have you been with Mr. Panzich?

A Oh, I have been with him more than 10 years.

Q Where did he have a restaurant when you first went to work for him?

A On 1st Street.

Q Were you ever in the Summit Avenue Place?

A Yes, I was down there to his house once in a while.

Q Well, he had a restaurant there on Summit Avenue didn't he?

A No, he didn't.

EXCEPTION NO. VI.

Q Did you move from the 1st Street place directly to Santa Monica?

A Tony moved down there and opened the place and gave me a job.

Q Well, you remember when they quit business on 1st Street, don't you?

A Yes.

Q And you remember when you opened the place in Santa Monica? I don't mean the exact date. I mean about the time you opened the place down there?

A I didn't open it myself.

Q You know when the place was opened at Santa Monica, don't you?

A Yes

Q All right, and you remember when the place was closed on 1st Street, when you quit work on 1st Street?

A I don't remember the date.

Q You don't remember the date, but you remember you did quit work there?

MR GRAHAM: I object on the ground it is not proper cross examination.

THE COURT: Overruled.

MR. GRAHAM: Exception.

THE COURT: Mr. Reporter, read that question.

(Question read)

A I don't remember when that place was closed.

Q BY MR. ROWELL: You know that it was closed, don't you?

A Yes

Q And you quit work down there?

A Yes.

I also went to work down at Santa Monica. I imagine it was about three months between the time I quit work on 1st Street and the time I started working at Santa Monica. I am not positively sure. During that three months I was not working for Tony. I did not see him very many times during that time. I was not with him when he wrote this lease up with the Elks Lodge on this place at Santa Monica. He said "I am going to assign my share of the lease" for the place down at Santa Monica. Panzich told me, "I am figuring to open a restaurant" and asked me if I wanted to work for him.

EXCEPTION NO. VII.

Q When he asked you if you wanted to work for him down there didn't he tell you he was going to put up this land you had a third interest in for security?

A Yes, to assign his share of the lease.

Q Did you not assign your share?

A I did not.

Q Have you any interest in this land now?

A Yes

Q And have you any papers to show your interest was not included in this paper or deed that was given to them?

MR. GRAHAM: Objected to, not proper cross examination.

THE COURT: Overruled.

MR. GRAHAM: Exception, and objected to on the further ground it assumes facts not in evidence; no evidence of the interest of anyone in that property.

THE COURT: Overruled.

MR. GRAHAM: Exception.

EXCEPTION NO. VIII.

MR. ROWELL: Q Did you ever get a statement from the Elks Club that they weren't holding your portion of this property as security for the lease?

A No, sir.

MR. GRAHAM: Same objection.

THE COURT: Overruled.

MR. GRAHAM: Exception.

Tony Govarko was not in that restaurant on the 30th of April, 1931, employed as a waiter. He was not there on April 30th. I know that. He was not there on May 4th. I know that. I am sure he was not there on the 13th of May, 1931. I am sure of that. I don't remember those dates but I never seen him there but one time and that was on May 15th. He was there about 4:30 or 5:00 o'clock when I first seen him. I went to work at two o'clock in the afternoon. He wasn't there until 4:30 or 5:00 o'clock. He came in about 4:30 or 5:00 o'clock. I saw him come in but he didn't come in with anybody. Nick Jurash was not there on the 30th of April, 1931. I am sure of that. I am sure he was not there on May 4th. He was not there on May 13th, 1931. The first time Nick Jurash was ever there was on the 14th of May. The only conversation I ever had with Mr. Brooks was when he placed me under arrest. He asked me what my name was. I didn't see him there on the 30th of April, on the 4th of May or the 13th of May. I am sure of that. It is not a fact that on the 30th of April, 1931, in the evening that I delivered to Mr. Brooks one pint of whiskey (Government's Exhibit I in this case). It is not a fact that I delivered to Agent Brooks and Agent Casey a pint of whiskey on the 4th of May, 1931. It is not a fact that I served to Agent Brooks and Agent

Casey while they were eating their dinner on the night of May 13, 1931, a bottle of wine. It is not a fact that I delivered to them another pint of whiskey on that same day.

REDIRECT EXAMINATION

BY MR. GRAHAM:

I did not sign any documents relating to the lease that Mr. Panzich had on that cafe.

EXCEPTION NO. IX.

Whereupon, the following proceedings were had:

MR. GRAHAM: If the court please, the defendants rest, and at this time I renew the motion made at the conclusion of the testimony and evidence of the prosecution and am willing to submit it without argument.

THE COURT: Denied.

MR. GRAHAM: Exception.

REBUTTAL TESTIMONY

on behalf of the plaintiff

HARRY J. WAITE,

called in rebuttal on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I don't remember that on May 15, 1931, at Tony's Goodfellows Inn at Santa Monica, California, if Agent Casey, Mrs. Casey or myself, or either of us, placed on order for Kosher chicken to be taken out of the restaurant by us or either of us. I did not. No chicken was delivered to me there to be taken out of the restaurant.

EXAMINATION BY THE COURT

I did not, nor did anyone in my presence. I was with those parties just mentioned and I never heard anything about a Kosher chicken. I didn't hear it. If it was ordered I didn't hear it.

CROSS EXAMINATION

BY MR. GRAHAM:

I know what they call Kosher meat. It is Jewish meat, I believe. It's fowl or meat prepared in some way according to the ritual of the Jewish faith. That is what I understand it to be. I stated yesterday that I didn't recall what I or any of the others did order on that evening. It was a lunch of meat and vegetables, but I don't recall what I ordered or any of the others ordered. I know I had fish. The others ordered meat.

S. W. BROOKS

called in rebuttal as a witness on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I paid the bill for the food and other matters ordered at Tony's Goodfellows Inn at Santa Monica on April 30, 1931. I looked at the statement. It had an item on it listed as "B. K. R." or "B. R. K." I believe it was "B. R. K." At that time I did not order any roast Kosher chicken nor did any one of my party in my presence. I did not take any packages with me from the restaurant other than Government's Exhibit I, nor did anyone else take anything from the restaurant that they didn't take into the restaurant. On the 4th of May, 1931, I saw the statement that was presented for pay-

ment. It contained an item listed as "B. K. R." or "B. R. K.". They may be transposed, those letters. I did not nor did anyone else in my presence at that time and place order any Kosher chicken. Government's Exhibit 2, containing some fluid, whiskey, was all that was taken away. I saw the statement that was presented for payment on May 13th. It contained such an item as I have described, initials "B. R. K." or "B. K. R.". I did not nor did anyone else in my presence order that day any Kosher chicken. I did not nor did anyone else in my party take with them from the restaurant any packages or anything that they didn't have on entering the restaurant other than Government's Exhibit 3, the pint bottle of whiskey. That is all that was taken away. I know the defendant, Govarko in this case. I spoke to him in English on three different dates, one on April 30th when I was in the booth and Mr. Arko had served me with the liquor, and we were seated in there a few minutes and Mr. Govarko came into the booth with the pint bottle of whiskey in his hand, sat glasses down before us and began to pour out the whiskey and I said, "What are you doing" and he said "I am in the wrong booth". He said "You might as well sample this anyway. This is bonded stuff". I told him we had whiskey already and he went away and took it. I am sure that is the defendant Govarko in this case. I saw him on two occasions and know him well. That was on April 30th. He came in by mistake to the booth that night. I spoke to him in English on May 13th. He came into the booth, he and Arko were in there at the same time and Mr. Govarko was pouring the drinks of liquor out when the defendant Arko pulled the cork out of the wine and they were both in the booth at the same time. I talked to him at that time in English and on

both occasions he spoke what I would say was very good English, but not fluently, but he understood me all right, and I understood him. I saw him on the 15th of May when I placed him under arrest and right away he told me he couldn't speak English. I didn't have any conversation with him before I arrested him on the 15th.

CROSS EXAMINATION

BY MR. GRAHAM:

The first time I saw Mr. Govarko was on April 30th. He was dressed just about the way he is now. He was not waiting on our table. We had a waiter serve us the food and Arko served us the liquor, and that was the time I saw Govarko come in and start serving drinks. I didn't give that testimony yesterday. It didn't occur to me yesterday. It occurred to me today when he testified that he couldn't speak English. I didn't testify that on one or two occasions Govarko did wait on our table and serve us food. He never served me food any time. I don't think I ever testified that I saw Jurash there on the 30th. The first time I saw Jurash there was I believe the 4th of May; I had no contact with Govarko on the 4th. My contacts with Govarko was the 13th and 15th. I wouldn't testify that I saw him there on the 4th. I saw Jurash there on the 4th and 13th of May. I am not as positive that I saw Jurash there on the 4th and 13th as I am that I saw Govarko there on the 30th of April, because I didn't have any conversation with Jurash such as those I did with Govarko. On the 30th of April, I recall that we ordered some sandwiches, all four of us had sandwiches to best of my knowledge. There might have been one exception but I am sure we all ate them, but I don't recall. Casey paid that bill. I

recall that the members of the party ordered some kind of meat, not regular meat, but some funny part of the beef they call meat. On April 13th, I don't recall what I had, nor what the rest of the party had. (Whereupon, upon application of the United States Attorney, the Court permitted the plaintiff to reopen its case in chief).

LAWRENCE H. MacDONALD

a witness on behalf of the plaintiff, as part of plaintiff's case in chief testified as follows:

DIRECT EXAMINATION

BY MR. ROWELL:

I was present at Tony's Goodfellows Inn on the 15th of May, 1931. I assisted in making a search of the premises at that time. Just on the outside of the back door, as you go out the back door there is a number of bins there, I should say four or five. They are back right against the building. I would say you have to travel four or five feet before you come to one of those bins. I made a search of those bins and Agent Casey assisted me. I recall one of the bins had—one had coal in it, and the bin next to the door had several empty bottles and empty cardboard cartons in it, and either the first or the second bin from the door, Agent Casey found a pint of whiskey in it. I was with him at the time it was found. Government's Exhibit 6 is the bottle that was found by Agent Casey. I have my initials and handwriting there as identification marks. Off the back of the kitchen there is a hallway that runs through to some store rooms in the back of the building, and then off of this hallway there is another hallway that runs to the back door that opens into the auto park next door to the building.

EXCEPTION NO. X

MR. ROWELL: I offer Government's exhibit 6 for identification in evidence.

MR. GRAHAM: Objected to on the ground that there is no connection shown between it and any of the defendants. The last answer of the witness shows that this bin, while it was against this building, was in a space which was an auto park.

THE COURT: A what?

MR. ROWELL: I don't believe that was the testimony. It was near an auto park.

MR. GRAHAM: Let me ask the witness another question. I think I can clear that up.

CROSS EXAMINATION

Q You say the back door of the kitchen opens into a hall?

A There is a hallway opens off the kitchen and goes to the store rooms in the back of the building.

Q And then there is another hall back of that?

A No, there is a hall that turns off at right angles to that. To the best of my memory its about 8 or 10 feet from the kitchen, turns at right angles and goes to the back door.

Q And these bins were near that back door?

A Yes, sir.

Q And also near that back door was the auto park?

A Yes, it stood around there.

Q Well, at least, back of the back door was an open space?

A Yes

Q And there was an auto park there?

A Yes

Q There were other stores in the building also, weren't there?

A I don't recall that.

MR. GRAHAM: I think, your Honor, that shows the *binds* were even more accessible to the auto park than to this cafe. They were closer to it and were in what was a part of it. They were in a different space, and in a different space was the auto park. There is not enough testimony there to warrant the introduction of this against the defendants.

THE COURT: Well, there is not necessarily an inference that the liquor had any connection with the kitchen. At the same time there is neither any necessary inference that it didn't. Its a matter of the weight of the evidence, I believe.

MR. GRAHAM: I would like to call the Court's attention also to the fact that this bottle appears to be a different kind of a bottle from the other bottles introduced in evidence.

THE COURT: Well, of course, that is a circumstance that will be taken into consideration, whether or not the jury will draw the inference that the bottle had some connection with this enterprise. Overruled.

MR. GRAHAM: Exception.

EXCEPTION NO. XI.

MR. GRAHAM: On account of the fact that the Government case in chief was reopened—you now rest?

MR. ROWELL: Yes

MR. GRAHAM: I now rest, and renew the motion that I made before.

THE COURT: Denied.

MR. GRAHAM: Exception.

Whereupon respective counsel for the parties hereto

argued the case to the jury and the court instructed the jury, no exceptions being saved to the instructions, and the jury retired to deliberate upon their verdict.

The defendants hereby present the foregoing as their proposed Bill of Exceptions herein, and respectfully ask that the same may be allowed.

RUSSELL GRAHAM

Attorney for Defendants

ORDER APPROVING BILL OF EXCEPTIONS

This Bill of Exceptions having been duly presented to the Court and the Court having found that the same corresponds with the facts, it is now signed and made a part of the records in this cause.

Dated Sept 10, 1932.

GEO COSGRAVE
JUDGE

[Endorsed:]

Lodged—June 2—1932 R S ZIMMERMAN, Clerk
By G. J. MURPHY Deputy Clerk

Received copy of the within Bill of Exceptions this
.....day of June, 1932 MILO E. ROWELL
Attorney for Plaintiff

Engrossed Bill Filed Sep 10 1932 R S Zimmerman
Clerk By Edmund L Smith Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. 10454-J
VS)
TONY PANZICH, et al,)
Defendants.)

ASSIGNMENT OF ERRORS

Come now Tony Panzich and John Arko, the defendants above named, and file the following statement and assignment of errors, upon which they and each of them will rely upon the prosecution of their appeal in the above entitled cause:

I.

That the Court erred in denying the motion of the defendants for an instructed verdict of not guilty, made at the conclusion of the evidence on the part of the plaintiff and appellee and renewed at the conclusion of all of the evidence.

II.

That the Court erred in reading the names of each defendant separately and required each defendant to stand after his name was read in the presence of the witnesses for the plaintiff, which witnesses were thereafter called upon to identify the various defendants after such procedure had been objected to by counsel for the defendants and after counsel for the defendants had informed the court that a question of identification of such defendants would thereafter arise during the course of the trial.

III.

That the Court erred in permitting counsel for the plaintiff to cross examine the defendant, John Arko with reference to his employment by the defendant. Tony Panzich at a cafe on East First Street, in Los Angeles, California, and with reference to the padlocking of such cafe by the United States Government.

Upon the foregoing assignment of errors and upon the record in said cause the said defendants pray that the verdict and judgment rendered therein may be reversed.

Dated this 23rd day of May, 1932.

RUSSELL GRAHAM

Attorney for Defendants

Endorsed on back: Received copy of the within assignment of errors this.....day of May, 1932.

MILO E. ROWELL

Attorney for Plaintiff

Filed May 23, 1932 R. S. ZIMMERMAN, Clerk By
G. J. Murphy Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) No. 10454-J
VS)
TONY PANZICH, et al,)
Defendants.)

PETITION FOR APPEAL

TO THE HONORABLE, THE DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DISTRICT OF CALIFORNIA, AND SAMUEL W. McNABB, ESQ., UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA, AND TO THE HONORABLE, THE CLERK OF THE ABOVE ENTITLED COURT:

YOU AND EACH OF YOU will please take notice that the defendants, Tony Panzich and John Arko desire to appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgments and sentence heretofore, to-wit, on the 20th day of May, 1932, made and entered against said defendants in the above entitled cause, and from each and every part thereof, and present herewith their assignment of errors and pray that such appeal be allowed.

Dated this 23rd day of May, 1932.

RUSSELL GRAHAM

Attorney for Defendants

[Endorsed on back:] Received copy of within petition for appeal this.....day of May, 1932. Milo E. Rowell. FILED: May 23, 1932 R. S. ZIMMERMAN, CLERK By G. J. Murphy, Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALI-
FORNIA CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
	Plaintiff,) NO. 10454-J
VS)	
TONY PANZICH, et al.,)	
	Defendants.)

ORDER ALLOWING APPEAL AND
FIXING BOND

Upon motion of Russell Graham, Esq., attorney for the defendants Tony Panzich and John Arko in the above entitled cause, and upon filing the petition for appeal from the judgments and sentences rendered against said defendants, together with an assignment of errors;

IT IS HEREBY ORDERED that an appeal be, and the same hereby is allowed, to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit the judgments and sentences heretofore entered herein against said defendants;

That pending the decision upon said appeal the defendant, Tony Panzich be, and he is hereby admitted to bail upon said appeal in the sum of Ten thousand and 00/100 dollars (\$10,000.00); and that the said defendant, John Arko be, and he is hereby admitted to bail upon said appeal in the sum of Ten thousand and 00/100 (\$10,000.00); that the bonds be conditioned that if the judgments be affirmed or the appeal dismissed the defendants will surrender themselves in execution of the judgments, will pay all fines that have been assessed against them and will abide the orders of the court.

That a cost bond be given by said defendants in the sum of Two hundred and fifty dollars (\$250.00).

Dated this 23rd day of May, 1932.

GEO. COSGRAVE

Judge

Approved as to form:

Milo E. Rowell,

United States Attorney

[Endorsed on Back:] Received copy of the within Order this Day of May, 1932. Milo E. Rowell, attorney for Plaintiff

FILED: May 23, 1932 R. S. ZIMMERMAN, CLERK,
By G. J. Murphy, Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALI-
FORNIA CENTRAL DIVISION

UNITED STATES OF)
AMERICA,)
Plaintiff,) NO. 10454-J (CRIM)
VS)
TONY PANZICH and)
JOHN ARKO,)
Defendants.)

STIPULATION AND ORDER RE CERTIFICA-
TION OF EXHIBITS TO UNITED STATES
CIRCUIT COURT OF APPEALS, NINTH CIR-
CUIT

IT IS HEREBY STIPULATED by and between
counsel for the respective parties hereto that each and
every of the exhibits in said cause now on file with the
Clerk may be by the Clerk of the District Court of the
United States, Southern District of California, sent to
the United States Circuit Court of Appeals for the
Ninth Circuit under a proper certificate from said
Clerk in lieu of sending copies of such exhibits.

Dated this 1st day of September, 1932.

SAMUEL W. McNABB,
United States Attorney,
By Milo E. Rowell
Assistant U. S. Attorney
Attorneys for Plaintiff
Russell Graham

Attorney for Defendants and Appellants

Filed Sep 2-1932 R S ZIMMERMAN Clerk B G J
MURPHY Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF)	
AMERICA)	
	Plaintiff,) NO. 10454-J (Crim)
VS)	
TONY PANZICH and)	
JOHN ARKO,)	
	Defendants.)

ORDER RE CERTIFICATION OF EXHIBITS TO UNITED STATES CIRCUIT COURT OF APPEALS, NINTH CIRCUIT

Upon the stipulation by and between counsel for the respective parties hereto and good cause appearing therefor,

IT IS HEREBY ORDERED that each and every of the exhibits in said cause now on file with the Clerk may be by the Clerk of the District Court of the United States, Southern District of California, sent to the United States Circuit Court of Appeals for the Ninth Circuit under a proper certificate from said Clerk in lieu of sending copies of such exhibits.

Dated this 9th day of September, 1932.

Geo. Cosgrave

JUDGE

Endorsed on back: Received copy of within Order this 9th day of September, 1932.

S. W. McNabb,
Milo E. Rowell

Attys for Plaintiff

FILED: Sep 9, 1932 R. S. Zimmerman, Clerk. By G J Murphy Deputy Clerk

NOW, THEREFORE, the condition of the above obligation is such that if the said defendants shall prosecute said appeal and answer all damages for costs if he fail to make good his plea, then the above obligation shall be null and void; otherwise to remain in full force and effect.

Tony Panzich
John Arko
PRINCIPALS
Mato Majic
Irene Johnston

SURETY

We, the undersigned, attorneys for the said defendants, hereby certify that in our opinion the form of the foregoing bond is correct, and that the Surety thereon is qualified.

Russell Graham
Attorney for Defendants

The foregoing bond is hereby approved as to form.

SAMUEL W. McNABB,
United States Attorney
By Clyde Thomas
Asst. U. S. Attorney

The foregoing bond is hereby approved.

Geo Cosgrave
U. S. District Judge

SOUTHERN DISTRICT OF CALIFORNIA, ss:

Irene Johnston of 503 Signal Bldg., L. A. Mato Majic 4546 Michigan Ave. L. A. being duly sworn, each for himself deposes and says that he is a householder in said District, and is worth the sum of Two Hundred & fifty dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

Irene Johnston

Mato Majic

Subscribed and sworn to before me

this 23 day of May, A. D. 193

David B. Head

United States Commissioner

(SEAL)

The form of the foregoing Bond and the sufficiency of
the sureties thereto is hereby approved.

David B. Head

U. S. Commissioner.

FILED MAY 23 1932

R. S. ZIMMERMAN, CLERK

By G. J. Murphy

Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. 10454-J
VS)
TONY PANZICH, et al,)
Defendants.)

BOND PENDING DECISION UPON APPEAL
KNOW ALL MEN BY THESE PRESENTS:

That we, TONY PANZICH, of the City of Los Angeles, State of California, as principal and Blaz and Manda Chutuk, husband and wife; Nicola & Antonette Gesualdi, husband & wife, as sureties, are jointly and severally held and firmly bound unto the UNITED STATES OF AMERICA, in the sum of Ten thousand and 00/100 Dollars (\$10,000.00), for the payment of which said sum we and each of us bind ourselves, our heirs, executors, administrators and assigns.

Signed and dated this 23rd day of May, 1932.

WHEREAS, lately, to-wit, on the 23rd day of May, 1932, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending in said Court, between the United States of America, plaintiff, and Tony Panzich, defendant, a judgment and sentence was made, given, rendered and entered against the said Tony Panzich in the above entitled action, wherein he was convicted as charged in said indictment.

WHEREAS, in said judgment and sentence, so made, given, rendered and entered against said Tony Panzich, he was by said judgment sentenced to imprisonment in the United States Penitentiary at McNeil Island for

two years and to pay a fine aggregating the sum of Ten thousand and 00/100 dollars (\$10,000.00)

That said Tony Panzich, having obtained an appeal from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear for the Ninth Circuit at San Francisco, California, in pursuance to the terms and at the time fixed in said citation.

WHEREAS, said Tony Panzich has been admitted to bail pending the decision upon said appeal in the sum of Ten thousand and 00/100 dollars (\$10,000.00).

NOW, THEREFORE, the conditions of the above obligations are such that if the said Tony Panzich shall appear in person or by his attorney, in the United States Circuit Court of Appeals for the Ninth Circuit, on such day or days as may be appointed for the hearing of said cause in said Court, and prosecute his appeal; and if the said Tony Panzich shall abide and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit, in said cause; and if the said Tony Panzich shall surrender himself in execution of said judgment and sentence, and will pay all fines that have been assessed against him if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said Tony Panzich shall appear for trial in the District Court of the United States in and for the Southern District of California, Central Division, on such day or days as may be appointed for retrial by said District Court, and abide by and obey all orders made by said District Court, if the said judgment and sentence against him be reversed by the United States Circuit Court of Appeals for the Ninth Circuit.

THEN THIS OBLIGATION TO BE void; otherwise to remain in full force, virtue and effect.

Tony Panzich

PRINCIPAL

Antonette (x her mark) Gesualdi

Nick Gesualdi

Russell Graham witness to
mark of Antonette Gesualdi

Blaz Chutuk

Manda (x her mark) Chutuk

Surety

Russell Graham

witness to mark of Manda Chutuk

Endorsed on back: I hereby certify that I have examined the sureties upon the within bond and find them good and sufficient.

May 23, 1932

DAVID B. HEAD

U. S. Commissioner

Approved as to form

Clyde Thomas

Asst. U. S. Atty

FILED: May 23, 1932

R. S. ZIMMERMAN, Clerk

By G. J. Murphy

Deputy Clerk

Approved Geo. Cosgrave

U. S. Dist Judge

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF CALIFORNIA

Blaz Chutuk of 1516 Michigan Ave Los Angeles and Nicola Gesualdi of 950 Summit Ave Los Angeles being duly sworn, each for himself deposes and says:

That he is a householder in the District aforesaid, and is worth the sum of Ten Thousand Dollars, over and above all debts and liabilities, exclusive of property exempt from execution, and is the owner of the property listed below under Schedule of Assets, which schedule is made a part of this affidavit; that the said property is not encumbered except as below listed and that the property is reasonably of the value below listed, and further that he is not receiving or accepting compensation for acting as surety herein and is not surety upon any outstanding penal bonds except as disclosed in the schedule below.

(A) BLAZ CHUTUK (SEAL)

(B) NICLO GESUALDI (SEAL)

Subscribed and sworn to before me this 23 day of May 1932

DAVID B. HEAD

United States Commissioner for the
Southern District of California.

SCHEDULE OF ASSETS

Surety "A" Lot 54 Tract 1212—L. A. County—per Bk 18 pp 126-127—value 15,000 clear, other real property of value approximately—\$40,000

Surety "B" Lot 4 Blk X—Mount Pleasant Tract L. A. County per Bk 32 p. 58—value 12,000—no encumbrances

I hereby certify that I have examined the sureties upon the written bond and find them good and sufficient. May 23, 1932.

DAVID B. HEAD (SEAL)
U. S. Commissioner

Approved as to form

CLYDE THOMAS, Asst U. S. Atty.

BOND OF TONY PANZICH, APPROVED: GEO.

COSGRAVE, U. S. Dist Judge

FILED MAY 23 1932 R. S. ZIMMERMAN, Clerk By

G. J. Murphy Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF
CALIFORNIA CENTRAL DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. 10454-J
VS)
TONY PANZICH, et al,)
Defendants.)

BOND PENDING DECISION UPON APPEAL
KNOW ALL MEN BY THESE PRESENTS:

That we, JOHN ARKO, of the City of Los Angeles, State of California, as principal and Luka and Mary Grgich husband & wife; Joseph L. and Rosa A. Missetich husband & wife - as sureties, are jointly and severally held and firmly bound unto the UNITED STATES OF AMERICA, in the sum of Ten thousand and 00/100 dollars, for the payment of which said sum we and each of us bind ourselves, our heirs, executors, administrators and assigns,

Signed and dated this 23rd day of May, 1932.

WHEREAS, lately, to-wit, on the 23rd of May, 1932, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending said Court, between the United States of America, plaintiff, and John Arko, defendant, a judgment and sentence was made, given, rendered and entered against the said John Arko in the above entitled action, wherein he was convicted as charged in said indictment.

WHEREAS, in said judgment and sentence, so made, given, rendered and entered against said John Arko, he was by said judgment sentenced to imprisonment in the United States Penitentiary at McNeil

Island, for two years and to pay a fine aggregating the sum of Five thousand and 00/100 Dollars (\$5,000.00).

That said John Arko, having obtained an appeal from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear for the Ninth Circuit at San Francisco, California, in pursuance to the terms and at the time fixed in said citation.

WHEREAS, said John Arko has been admitted to bail pending the decision upon said appeal in the sum of Ten thousand and 00/100 Dollars (\$10,000.00).

NOW, THEREFORE, the conditions of the above obligations are such that if the said John Arko shall appear in person or by his attorney, in the United States Circuit Court of Appeals, for the Ninth Circuit, on such day or days as may be appointed for the hearing of said cause in said Court, and prosecute his appeal; and if the said John Arko shall abide and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit, in said cause; and if the said John Arko shall surrender himself in execution of said judgment and sentence and will pay all fines that have been assessed against him if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said John Arko shall appear for trial in the District Court of the United States in and for the Southern District of California, Central Division, on such day or days as may be appointed for retrial by said District Court, and abide by and obey all orders made by said District Court, if the said judgment and sentence against him be reversed by the United States Circuit Court of Appeals for the Ninth Circuit.

THEN THIS OBLIGATION TO BE VOID; otherwise to remain in full force, virtue and effect.

John Arko

PRINCIPAL

Luka Grgich

Mary Grgich

Joseph L. Misetich

Rose A. Misetich

SURETY

UNITED STATES OF AMERICA,
Southern District of California.

Lika Grgich of 419 Alpine St —Los Angeles and Jos. L. Misetich of 1323 Pennsylvania Ave. Los Angeles being duly sworn, each for himself deposes and says:

That he is a householder in the District aforesaid, and is worth the sum of Ten thousand— Dollars, over and above all debts and liabilities, exclusive of property exempt from execution, and is the owner of the property listed below under Schedule of Assets, which schedule is made a part of this affidavit; that the said property is not encumbered except as below listed and that the property is reasonably of the value below listed, and further that he is not receiving or accepting compensation for acting as surety herein and is not surety upon any outstanding penal bonds except as disclosed in the schedule below.

(A) Luke Grgich (Seal)

(B) Joseph L. Misetich

Subscribed and sworn to before
me this 23 day of May 1932

DAVID B. HEAD

United States Commissioner for
the Southern District of California

(SEAL)

Schedule of Assets

Surety "A"

Lot 6 Blk 37 Ords Survey
L. A. County per Bk 53 p
66-73 value \$16,000 clear

Surety "B"

Lot 3 Blk 18, Tract 6110
L A County per Bk 68 p.
59-60

Lot 5 (S. 45 ft of) Blk
"O" & "R" of Mt Pleas-
ant Tract LA County per
Bk 23 p 99, value \$11,000
—clear

endorsed on back: I hereby certify that I have ex-
amined the sureties upon the within bond and find
them good and sufficient.

May 23—132

(Seal) David B. Head

Approved as to form

Clyde Thomas, Asst. U. S. Atty.

Approved

Geo Cosgrave

U S Dist Judge

FILED May 23 1932

R S ZIMMERMAN, CLERK By GJ Murphy
Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF))	
AMERICA,))	
)	Plaintiff,) NO. 10454-J (CRIM)
VS))	
TONY PANZICH and))	
JOHN ARKO,))	
)	Defendants.)

PRAECIPE FOR RECORD

To the Clerk of said Court:

Sir: Please prepare transcript of record to the Circuit Court of Appeals in the above entitled cause and include therein the following papers and orders:

- (1) Indictment
- (2) Pleas
- (3) Verdicts
- (4) Minutes of Trial
- (5) Bill of Exceptions and order approving same
- (6) Petition for appeal
- (7) Order allowing appeal and fixing bond
- (8) Citation
- (9) Stipulation and order re certification of exhibits to Circuit Court of Appeals
- (10) Stipulations and orders extending time for filing transcript on appeal and docketing same
- (11) Cost bonds on appeal
- (12) Bail bonds on appeal
- (13) Assignment of errors
- (14) Judgments and sentences
- (15) Praecipe for record

Dated this 1st day of September, 1932.

Russell Graham

Attorney for Appellants

Endorsed on back: Received copy of the within Prae-
cipe for record this 6th day of September, 1932.

Milo E. Rowell

Attorneys for Plaintiff

FILED Sep 6, 1932, R. S. ZIMMERMAN, Clerk, By
G J MURPHY

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF))	
AMERICA,))	
)	Plaintiff,) NO. 10454-J (Crim)
VS))	
TONY PANZICH, et al,))	
)	Defendants.)

CLERK'S CERTIFICATE

I, R. S. ZIMMERMAN, clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing..... pages, numbered from 1 to.....inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the indictment; pleas; minutes of trial; verdicts; sentences; petition for appeal; order allowing appeal and fixing bond; citation, bill of exceptions and order thereon; assignment of errors; stipulation re certification of exhibits; order re certification of exhibits; cost bond; bail bonds on appeal; praecipe for record, and stipulation and order re printing.

I do further certify that the amount paid for printing the foregoing record on appeal is \$.....and that said amount has been paid the printer by the appellants herein and a receipted bill is herewith enclosed, also that the fees of the Clerk for comparing, correcting and certifying the foregoing record on ap-

peal amount to.....and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Central Division, this.....day of October, in the year of Our Lord One Thousand Nine hundred and Thirty-two, and of our Independence the One Hundred and Fifty-sixth.

R. S. ZIMMERMAN,

Clerk of the District Court of the United States of America, in and for the Southern District of California,

By

Deputy.